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December 1,2004

Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 – 9th Street, Suite 300
Sacramento, CA 95814

Re: Initial Briefing for Case No. 04-RL-3929-05
Regional Housing Needs Determination — Councils of Governments

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Dear Ms. Higashi:

This law firm serves as general counsel to the Sacramento Area Council of Governments ("SACOG"). This letter is submitted on SACOG's behalf in response to Commission on State Mandates' (the "Commission") request for initial briefing on the reconsideration of former State Board of Control decision 3929 regarding the regional housing needs mandate for Councils of Governments ("COG") enacted by Statutes 1980, chapter 1143. On behalf of SACOG, I strongly urge that the Commission find that the regional housing needs assessment required by Government Code section 65584 continues to be a reimbursable state mandate under section 6 of article XIIIB of the California Constitution.

You have received briefs and comment letters from the California Association of Councils of Governments and the League of California Cities. SACOG concurs with the arguments made in both submittals, and incorporates the arguments included therein into this letter by reference.

In addition, the Commission should find that the regional housing needs assessment continues to be a reimbursable state mandate for the following reasons. Government Code s Section 65584 requires that the COGs prepare the regional housing needs assessment for their respective regions. "Based upon data provided by the [D]epartment [of Housing and Community Development] relative to the statewide need for housing, each council of governments shall determine the existing and projected housing need for its region." (Government Code section 65584(a).) At the time this requirement was imposed in 1980, this requirement was clearly a new program imposed upon local governments by the Legislature. As a result, the State Board of Control determined in its decision 3929 that the regional housing needs assessment was a reimbursable state mandate, and the COGs have received

reimbursement from the State for conducting the regional housing needs assessment since that time.

The notice of reconsideration issued by the Commission on State Mandates suggests that Government Code section 65584.1, as adopted by Statutes 2004, Chapter 226 (SB 1102), section 58, and amended by Statutes 2004, Chapter 818 (SB 1777), section 1 grants COGs the authority to levy fees against their member agencies for the cost of preparing the regional housing needs assessment, and that the regional housing needs assessment is exempt from state reimbursement under Government Code section 17556(d). Government Code section 65584.1 does not grant the COGs a legitimate authority to levy fees against its members, and therefore does not exempt the regional housing needs assessment from reimbursement as a state mandate. Section 65584.1 states in part: "Councils of government may charge a fee to local governments to cover the projected reasonable, actual costs of the council in distributing regional housing needs pursuant to this article." Notwithstanding this new provision, the COGs simply do not have the authority to unilaterally levy fees against local governments. The COGs, like all joint powers authorities, are created by an agreement entered into voluntarily by the COGs' local agency members, in accordance with the Joint Exercise of Powers Act. (Gov't Code §6508.) The COGs have only those powers enumerated in their respective joint powers agreements. SACOG does not have the power to unilaterally levy fees against its member agencies. In order to charge such fees, the member agencies would have to amend SACOG's joint powers agreement to grant SACOG with the authority to authorize such fees. The "authority" to charge fees against its members set forth in section 65584.1 is not a real authority, because the COGs cannot levy the fees against any agency unless and until its members agree to amend the joint powers agreement to create the power to levy such fees.

Further, if SACOG does amend its joint powers agreement to provide for the levying of fees to pay for the regional housing needs assessment, then any of its member agencies can withdraw from SACOG. SACOG would not conduct the regional housing needs assessment for agencies that are not members of SACOG, and would have no power to levy fees against such agencies. In fact, if some local agencies did withdraw from SACOG, rather than paying a fee for the preparation of the regional housing needs assessment, then the responsibility for conducting, and paying for, the regional housing needs assessment would fall back ~~to~~ the *State.* Section 65584(b) states that, for areas with no council of governments, the Department of Housing and Community Development will prepare the regional housing needs assessment. The department will only delegate this responsibility to the local agency if the department determines that the local agency has the capability and resources to prepare the assessment *and* the local agency agrees to prepare the

assessment. Therefore, the COGs can levy fees against those agencies that voluntarily agree to pay such fees, but those agencies that refuse to pay the fees can withdraw from the COGs and the State will be responsible for preparing and paying for the regional housing needs determination for those agencies.

Section 65584.1 does not grant the COGs authority to levy fees to recover the costs of the regional housing needs determination. The legislature cannot grant the COGs this authority independent of their respective joint powers agreements. Under this new statute, the COGs can simply request that their member agencies agree to subject themselves to this "fee." Further, as the League of California Cities indicates in its letter on this reconsideration, cities and counties likely do not have the authority to levy an impact fee against developers for preparing the regional housing needs determination. Government Code section 65584.1 hinges on the hope that local agencies, and in turn, developers, will agree to pay the costs of the regional housing needs determination, despite the lack of genuine authority to levy such fees. Therefore, the regional housing needs assessment remains a program imposed by the State Legislature that places added cost burdens on local agencies, unless those costs are reimbursed by the state. SACOG therefore submits that this program should remain a reimbursable state mandate, as determined by State Board of Control decision 3929.

Thank you for your consideration of this letter.

Very truly yours,

Harriet Steiner

Harriet A. Steiner

HAS:ew

cc: Martin Tuttle, SACOG
Joan Medeiros, SACOG
Rusty Selix, CALCOG
Betsy Strauss, Special Counsel to the League of California Cities

JOINT POWERS AGREEMENT
OF THE
SACRAMENTO AREA COUNCIL OF GOVERNMENTS

Effective July 1, 2003

THIS AGREEMENT is entered into by and between the Counties of El Dorado, Placer, Sacramento, Sutter, Yolo, and Yuba, and the Cities of Auburn, Citrus Heights, Colfax, Davis, Elk Grove, Folsom, Galt, Isleton, Lincoln, Live Oak, Marysville, Rocklin, Roseville, Sacramento, West Sacramento, Wheatland, Winters, Woodland and Yuba City and such other cities and counties as may become members as herein provided ("Member Cities and Counties"). The member cities and counties agree as follows:

ARTICLE 1
ESTABLISHMENT

There is hereby created an organization known and denominated as the Sacramento Area Council of Governments which shall be a public entity, separate and apart from any member city or county. The Sacramento Area Council of Governments shall be governed by the terms of this Joint Powers Agreement and the Rules, duly passed and adopted by the Board.

ARTICLE 2
AUTHORITY AND DEF'INITIONS

Section 2.0 – Authority.

This Agreement is entered into pursuant to the authority in Title 1, Division 7, Chapter 5 of the Government Code (commencing with Section 6500 et seq.) of the State of California.

Section 2.1 – Definitions.

The following words or terms shall have the meaning ascribed to them within this Section unless the content of their use dictates otherwise:

a. "Area" means the territory lying within the Counties of El Dorado, Placer, Sacramento, Sutter, Yolo and Yuba, and such additional territory as may be added from time to time pursuant to section 4.0.b.

b. "Board" means the Board of Directors of the Sacramento Area Council of Governments.

C. "Council" means the Sacramento Area Council of Governments.

d. "Director" means a member of the Board of Directors.

e. "Fiscal Year" means July 1st through June 30th.

f. "Member city or county" means a city or county which, pursuant to this Agreement, has become a member of the Sacramento Area Council of Governments.

g. "Population" means the population as determined annually by the State Department of Finance. The population of a member county does not include the population of any city within that county. Revision of member agency populations used for voting and annual membership assessments shall occur immediately upon receipt of new determinations from the State.

ARTICLE 3

PURPOSE

The member cities and counties have joined together to establish the Council for the following reasons:

a. A number of problems and issues within the area are either areawide in nature or have areawide aspects or implications such as, but not limited to, transportation, air quality, water quality, land use, housing and employment.

b. There is a demonstrated need for the establishment of an organization of cities and counties within the area to provide a forum for the discussion and study of areawide problems of mutual interest and concern to the cities and counties and to facilitate the development of policies and action recommendations for the solution of such problems.

c. The member cities and counties wish to create an areawide organization which will independently review and make comments to the member cities and counties regarding projects which receive federal or state funding.

d. The member cities and counties believe that an areawide planning organization, governed solely by elected officials from the member cities and counties, with a staff independent of any member city or county, is best suited for this areawide planning and review.

e. Member cities and counties, working together through this organization, can exercise initiative, leadership and responsibility for solving areawide problems.

f. Member cities and counties share common areawide problems and issues and, at the same time, have different needs and priorities and are affected in different ways by these common areawide problems and issues. The resources of the Council should be allocated in such a manner so that the needs of any portion of the area are not ignored, recognizing, however, that resources are limited and that not all needs can be met, nor all portions of the area assisted equally at any one time.

ARTICLE 4
ORGANIZATION

Section 4.0 – Membership.

a. A city or county within the area may petition to become a member of the Council by submitting to the Board a resolution adopted by its governing body. The Board shall review the petition for membership and shall vote to approve or disapprove the petition. If the petition is approved by the Board the city or county shall become a member of the Council.

b. A city or county not within the area may petition to become a member of the Council by submitting to the Board a resolution adopted by its governing body. The Board shall review the petition for membership and shall prepare recommended amendments to this Agreement regarding the proposed additional member. The Board shall vote to approve or disapprove the petition, together with the recommended amendments to this Agreement. If the petition and the recommended amendments are approved, the Board shall submit the amendments to each member city and county. A city or county shall only become a member of the Council after such amendments have been approved by at least three-quarters (3/4) of the governing bodies of member counties and three-quarters (3/4) of the governing bodies of member cities.

Section 4.1 - Withdrawal from Membership.

Any member city or county may, at any time, withdraw from the Council. The withdrawal of a member city or county shall become effective ninety (90) days after a resolution adopted by its governing body which authorizes withdrawal is received by the Secretary of the Board. A city or county which withdraws shall not be entitled to the return of any assessments paid to the Council pursuant to Section 8.0 unless said resolution authorizing withdrawal is received by the Secretary of the Board prior to July 1st of the fiscal year for which the assessment was paid.

Section 4.2 - Successor Agency.

The Council is hereby designated the successor in interest to all remaining obligations, powers, duties, responsibilities, benefits and interests of any sort, including, but not limited to, any rights, title and interest in real and personal property, of the Sacramento Regional Area Planning Commission.

ARTICLE 5
BOARD OF DIRECTORS

Section 5.0 - Board of Directors.

All powers of the Council shall be exercised by the Board of Directors. The Board shall be composed of Directors as follows:

a. Each member county, except Sacramento County, is entitled to one (1) Director who shall be a Supervisor of the appointing county and who shall be appointed by the Board of Supervisors of the appointing county.

b. The Board of Supervisors of Sacramento County shall appoint one (1), two (2), or three **(3)** Directors each of whom shall be a Supervisor.

c. The City Council of the City of Sacramento shall appoint one (1) or two **(2)** Directors, each of whom shall be the Mayor or a member of the City Council.

d. Each member city except the City of Sacramento, shall be entitled to one (1) Director who shall be a Mayor or a City Council member of the appointing city and who shall be appointed by the city council or the mayor of the appointing city, based on the procedures for appointment used by the city. The director's seat for each member city shall be activated upon adoption of a resolution of that member city's city council activating the director's seat and appointing one of its members to that director's seat. A city council may by resolution later deactivate its seat. De-

activation does not constitute withdrawal from SACOG. If a city has not activated its director's seat or has de-activated its seat, the population of that city shall be included in the population of the county in which that member city is situated for the purpose of Board of Director's voting based on population.

Section 5.1 - Terms and Board Membership.

Directors shall serve at the pleasure of their appointing authority.

Section 5.2 - Vacancies and Removal.

If a person who has been appointed as a Director ceases to serve as a Supervisor, Mayor or City Council member, he/she shall no longer serve on the Board. Any Director may be removed at any time by a majority vote of the appointing authority. A vacancy shall be filled in the same manner as the original appointment

Section 5.3 - Alternate Directors.

Each city **and** county which is entitled to appoint a Director pursuant to subsections a. through d. of Section 5.0 shall be entitled to appoint one alternate Director for each Director so appointed. An Alternate Director shall be a Council member, Mayor or Supervisor of the appointing city or county-.

The terms, manner of appointment and removal, and the filling of vacancies of Alternate Directors shall be governed by the provisions of Section 5.0, 5.1, and 5.2.

Alternate Directors shall receive all meeting notices and written material sent to Directors and shall have the right to participate and vote at meetings of the Board in the absence of the Director for whom the Alternate Director serves.

All provisions of law relating to conflicts of interest that apply to a Director shall apply to an Alternate Director.

An Alternate Director shall be entitled to receive expenses reasonably and necessarily incurred in the conduct of the business of the Council in the same manner and method as a Director. However, if a Director and an alternate attend a meeting, only the Director shall be entitled to such a payment or reimbursement.

Section 5.4 -Ex Officio Directors.

The Director of Caltrans District 3 may sit as an Ex Officio member of the Board. He or she shall receive all meeting notices, shall have the right to participate in Board discussions, and

the right to place matters on the agenda, but shall not be counted toward a quorum of the Board and shall have no vote.

Section 5.5 - Officers.

a. Chair. The Chair of the Board shall be elected annually at the last regular meeting in each calendar year and shall begin serving as Chair at the first regular meeting in the next calendar year. Any Director may be authorized to represent the Board upon approval by the Chair. The Board may determine, by Rule, that the Chair shall alternate or rotate between directors representing city and county member agencies.

b. Vice Chair. The Vice Chair of the Board shall be elected annually at the last regular meeting in each calendar year and shall begin serving as Vice Chair at the first regular meeting in the next calendar year. He/she will have all the powers and act in the place of the Chair in his/her absence. The Board may determine, by Rule, that the Vice Chair shall alternate or rotate between directors representing city and county member agencies.

c. Secretary. The Executive Director shall serve as Secretary. The Secretary will keep a public record of the Board's resolutions, transactions, findings and determinations, and prepare minutes of every meeting.

Section 5.6 - Ouorum.

A majority of the Directors in each of the following categories must to present to constitute a quorum for action on the business of the Board:

(1) Directors representing a majority of the total population of the SACOG member agencies;

(2) A majority of the Directors of the member cities who have activated and appointed their Director(s); and

(3) A majority of the Directors of the member counties.

If the Board consists of an even number of Directors in any of the categories listed above, a majority shall be one more than half the number of Directors on the Board who represent the member agencies in the applicable category.

Section 5.7 - Approval of Areawide Plans, Standards and Programs.

a. Federal or state mandated plans or standards which establish requirements which member cities or counties must implement or meet in order to avoid sanctions or qualify for funds shall only be adopted after receiving the affirmative vote of the Board, as provided in Section 5.8, and after receiving the approval of at least two-thirds (2/3) of the governing bodies of member cities and two-thirds (2/3) of the governing bodies of member counties which are affected by such plan or standard.

Such mandated plans or standards requiring approval pursuant to this sub-section shall be identified by rule by the Board.

b. In all matters pertaining to the adoption or amendment of areawide plans and programs, should a plan adopted by the Board subsequently become mandatory by federal or state law, ratification of such plan shall be required in the manner provided in subsection a. of this Section.

Section 5.8. Voting.

a. All actions taken by the Board shall be pursuant to the following procedures. A vote shall be taken of all directors present. Each director's vote shall be counted toward the population vote and toward the vote of either the member cities or the member counties, depending on whether the director is appointed by a city or a county. Action by the Board shall require an affirmative vote in each of the following three categories as set forth below.

1. Population: Each Director's vote shall be counted as the total population of the Director's appointing member agency, as determined using the population figures used to determine membership assessments pursuant to section 8.0 of this Agreement, except as provided below for the City and the County of Sacramento. In addition, if a city has not activated its director's seat or has de-activated its seat, the population of that city shall be included in the population of the county in which that member city is situated. Action by the Board shall require an affirmative vote of at least a majority of the population of the member agencies whose Directors are present and voting.

2. Member Cities: Each Director appointed by a City shall have one vote, except as provided below for the City of Sacramento. To pass, there must be an affirmative vote from at least a majority of the Directors representing member cities present and voting.

3. Member Counties: Each Director appointed by a County shall have one vote, except as provided below for the County of Sacramento. To pass, there must be an affirmative vote from at least a majority of the Directors representing member counties present and voting.

b. The Director(s) appointed from the County of Sacramento shall have a total of three(3) votes. Votes, for both the population vote and the member county vote shall be divided equally among those Directors from Sacramento County present and voting.

c. The Director(s) appointed from the City of Sacramento shall have a total of two **(2)** votes. Votes, for both the population vote and the member city vote shall be divided equally between the Director(s) from the City of Sacramento present and voting.

Section 5.9 - Subarea Voting on Transportation and Air Quality Issues.

a. For the purposes of this Section, the area within the jurisdiction of the Council shall be comprised of two subareas: the Sutter-Yuba subarea and the Sacramento subarea. The Sutter-Yuba subarea shall mean the territory lying within Sutter and Yuba Counties and the member cities within those two counties. The Sacramento subarea shall mean the territory lying within the remaining member cities and counties.

b. Unless prohibited by federal or state law, the Board may determine, in accordance with Section 5.8, that a transportation or air quality plan, program or issue affects only one subarea and that action upon such plan, program or issue should be made only by the Directors representing that area.

c. If the Board determines that a transportation or air quality plan, program or issue affects only a subarea pursuant to subsection b. , action upon the plan, program or issue shall be voted upon only the Directors who represent member cities and counties within the subarea. The provisions of Sections 5.6, 5.7 and 5.8 shall be applicable to actions taken by Directors from the subarea, except that the phrase "the Board," as used in those Sections, shall be deemed to be the total number of Directors representing member cities and counties within the appropriate subarea. Actions by the Directors of the subarea shall be deemed to be actions of the Board.

Section 5.10 – Creation of Additional Subareas.

a. The Board may, from time to time, by Rule adopted pursuant to Section 5.11, designate additional subareas if the Board finds that there is a function or functions that SACOG performs that affects one group of member agencies or one area within the SACOG region and does not similarly affect the other member agencies or other regions. The Board shall state the reason or rationale for the creation of the subarea or subareas in the Rule.

b. Once a subarea has been established by Rule, unless prohibited by federal or state law, the Board may determine, by majority vote in accordance with Section 5.8, that the issue before the Board affects only the particular subarea so designated and that action on the issue should be made by the Directors representing that subarea. If the Board determines that subarea voting is appropriate, the provisions of Sections 5.6, 5.7 and 5.8 shall be applicable to the Directors from the subarea, except that the phrase "the Board," as used in those Sections shall be deemed to be the total number of Directors representing the member cities and counties within the applicable subarea. Actions by the Directors of the subarea shall be deemed to be actions of the Board.

Section 5.11 - Meetings.

a. Regular Meetings. Regular meetings of the Board shall be held monthly. The By-Laws of the Board shall provide for the notice, time and place of the regular meetings,

b. Special Meetings. Special meetings may be called by the Chair or a majority of the members of the Board.

c. Brown Act. All meetings shall be called and conducted in accordance with the Ralph M. Brown Act (commencing with Section 54950 of the Government Code).

Section 5.12 - Rules.

The Board may adopt, from time to time, rules for the conduct of its meetings and the operation of the Council. Copies of such rules shall be maintained by the Secretary, and copies thereof shall be filed with each member city and county. Written notice of a proposed rule amendment shall be sent to each Director and member city and county at least three (3) weeks prior to the vote by the Board on the proposed rule amendment. Such rules shall be consistent with the provisions of this Agreement and, in the event of any conflict between the provisions of the Rules and the provisions **of** this Agreement, the provisions of this Agreement shall control.

Section 5.13 - Executive Director.

The Board shall appoint an Executive Director who shall serve at the pleasure of the Board. The Executive Director shall be the Chief Executive Officer of the Council and shall have such duties as may be prescribed by the Board. The Executive Director shall employ such other staff members as necessary to accomplish the Council's program, consistent with the annual budget, personnel rules, position plan and salary plan. The Executive Director shall be responsible for all projects and property of the Council and shall file with the Treasurer of the Council, as required by the Board, an official bond in an amount to be determined by said Board, guaranteeing the faithful performance of his duties.

Section 5.14 - Work Program Report.

Prior to the adoption of a final work program for each fiscal year, the Executive Director shall report to each member city and county on the work program of the preceding year with emphasis on those portions which have affected the applicable member city or county by addressing either local needs or an areawide need of local interest. Each member city or county shall have an opportunity to comment and identify problems, issues and needs which the member city or county determines have not been addressed and which should be considered for inclusion in future work programs and funding allocations. The comments of each member city and county shall be transmitted to and considered by the Board prior to the adoption of the final work program.

ARTICLE 6
FUNCTIONS

The functions of the Council shall include, but not be limited to:

a. Identify, study and recommend solutions to areawide problems through the development of comprehensive areawide plans and action programs. Such plans and programs shall be developed in close consultation with each member city and county and will include the following.

   1. Transportation planning and administration of funds
   2. Housing planning
   3. Water quality planning
   4. Land use planning
   5. Air quality planning

b. Serve as the regional, areawide, or umbrella multi-jurisdictional organization which may be required by state or federal law or regulation so that local governments can

continue to qualify for state or federal funds and programs, and serve as the designated organization to review and comment on local applications for federal or state funds or programs when required by law or regulation.

c. Provide assistance to member cities and counties; to collect, analyze and disseminate information which will be of value to member cities and counties, including federal census data and information on state and federal aid programs, and provide technical assistance as may be requested by member cities and counties.

d. Represent the area before state and federal governments; vigorously express to state and federal agencies the local government point of view on areawide problems, issues and needs, and, in this representation, strengthen the effectiveness of local government.

e. Serve as the Airport Land Use Commission for Sacramento, Sutter, Yolo, and Yuba Counties, and for such other member counties that request and fund this service.

f. To provide, with Council approval, services similar to those described in a. through e. above to non-member cities, counties, and special districts on a full or partial cost-reimbursement basis.

ARTICLE 7

POWERS

Section 7.0 - General Powers.

The Council shall have such powers as may be necessary for the accomplishment of the purpose and functions of this Agreement, including, but not limited to, the power in its own name to make and enter into contracts; to employ agents and employees under an adopted personnel system; to provide for employee retirement, health and welfare benefits; to acquire, hold and dispose of property, both real and personal; to sue and be sued in its own name; to hire legal counsel; and to incur debts, liabilities or obligations. The debts, liabilities and obligations of the Council shall not constitute any debts, liabilities or obligations of its predecessor, the Sacramento Regional Area Planning Commission, unless expressly authorized by the Board. The Council may accept grants, gifts, donations and other monies made in the public interest to carry out the purposes and functions as provided in this Agreement. To the extent budgeted, and as provided by rule, the Board is authorized to pay expenses reasonably and necessarily incurred in the conduct of business, including travel expenses to attend meetings and conferences relating to the business of the Council.

Section 7.1 - Limitations.

Pursuant to Government Code Section 6509, the powers of the Council are subject to the restrictions upon the manner of exercising such powers of one of the designated member cities or counties. For such purpose, the City of Sacramento is hereby designated, except as to the manner of exercising powers which relate to the employment of personnel and as to those powers, the County of Yuba is hereby designated.

ARTICLE 8
FINANCIAL

Section 8.0 - Assessments.

Contributions, in the form of assessments, shall be made annually by member cities and counties in amounts sufficient to provide the funds necessary to carry out the functions of the Council. The annual assessment for each member city and county shall be based on population. Each year, not later than April 1st, the Board shall fix the membership assessment rate for each member city and county. Prior to July 1st, each member city and county shall be notified of its assessment amount.

Section 8.1 - Budget.

Prior to July 1st of each fiscal year, the Board shall adopt a preliminary budget. Prior to September 1st of each fiscal year, the Board shall adopt a final budget.

Section 8.2 - Treasury.

The Treasury of the County of Sacramento shall be the depository of funds of the Council and the Treasurer of the County of Sacramento shall be the ex-officio Treasurer of the Council. The Auditor of the County of Sacramento shall be the ex-officio Auditor of the Council and shall draw warrants against the funds of the Council in the treasury when the demands are approved by the Executive Director or his designee. The Auditor and Treasurer shall comply with all duties imposed under Article 1, Chapter 5, Division 7, Title I of the Government Code, commencing with Section 6500. The County of Sacramento may determine reasonable charges to be made against the Council for the services of the Treasurer and Auditor. At the close of each fiscal year, as provided in Government Code Section 6505, the Auditor of Sacramento County shall make an audit. In the alternative, the Board may contract with a public accountant or certified public accountant to make an audit of the accounts and reports of the Council.

Section 8.3 - Funds.

The Treasurer of the Council shall receive and have the custody of, and disburse Council funds on the warrant of the Auditor and shall make disbursements required by this Agreement. The Treasurer of the Council shall invest Council funds in accordance with the general law. All interest collected on Council funds shall be accounted for and deposited to the account of said funds.

Section 8.4 - Accounts and Reports.

The Council shall establish and maintain such records and accounts which are deemed necessary to account for and report on the various sources of funds, expenditures, grants, programs and projects and as may be required by good accounting practice, the State Controller or the United States Government. The books and records of the Council shall be open to inspection by representatives of the member cities and counties at all reasonable times.

ARTICLE 9
DURATION, DISPOSITION AND AMENDMENT

Section 9.0 - Effectiveness

This Agreement became effective and the Council was established on January 15, 1981.

Section 9.1 - Duration.

This Agreement shall continue in effect until it is rescinded or terminated; provided that the withdrawal from membership in the Council by any city or county shall not operate to terminate this Agreement.

Section 9.2 - Disposition of Assets Upon Termination

Upon termination of this Agreement, any money or assets in possession of the Council after payment of all liabilities, costs, expenses and charges validly incurred pursuant to this Agreement shall be returned to the member cities and counties in proportion to their contributions determined as of the date of termination.

Section 9.3 - Amendment.

This Agreement may be amended by the adoption of the amendment by three fourths (3/4) of the governing bodies of the member counties and three fourths (3/4) of the governing bodies of the member cities, each acting by resolution. The amendment shall become effective on the first day of the month following the last required member agency approval. If a proposed amendment has not been approved by the member agencies as provided in this section 120

days after the date the first member agency approves the amendment, the proposed amendment shall be null and void and shall not become effective unless first resubmitted to the member agencies by the Board and then adopted as set forth in this Section.

Section 9.4 - Review of Board Composition and Voting Structure and Procedures.

Twelve months after the implementation of the Board composition and voting procedures set forth about, including the voting by population, by cities and by counties, the Board of Directors shall review the Board composition and the voting structure and procedures and whether the Board composition and the voting structure and procedures are promoting the purpose and mission of SACOG, including but not limited to regionalism and good working relationships to the benefit of the region and SACOG. The Board may determine that the Board structure and/or the voting structure and procedures should be altered or amended to better promote or implement the purpose and mission of SACOG and the region and the Board may make suggestions for amendment of the Agreement to the member agencies.

IN WITNESS WHEREOF, each of the following member cities and counties have caused this Joint Powers Agreement to be executed by having affixed thereto the signatures of the agent of said city and county authorized therefor by resolution of the governing body of said city and county.

AS ADOPTED BY THE ELIGIBLE CITIES AND COUNTIES

October 21, 1980
Revised January 20, 1983
Revised February 1, 1988
Revised June 16, 1988
Revised March 18, 1999
Revised October 2, 2002
~~Proposed~~Revised: ~~May 15~~June 24, 2003

within a reasonable time. The test claim may be based upon estimated costs that a local agency or school district may incur as a result of the statute or executive order and may be filed at any time after the statute is enacted or the executive order is adopted. The claim shall be submitted in a form prescribed by the commission. After a hearing in which the claimant and any other interested organization or individual may participate, the commission shall determine if there are costs mandated by the state.

(Added by Stats.1984, c. 145'9, § 1.)

Code of Regulations References

Action on proposed decision, see 2 Cal. Code of Regs. § 1188.1.
Conduct of hearing. see 2 Cal. Code of Regs. § 1187.6.
Form of decision, see 2 Cal. Code of Regs. § 1188.2.
Notice of hearing, see 2 Cal. Code of Regs. § 1187.1.
Representation at hearing, see 2 Cal. Code of Regs. § 1187.8.
Test claim filing, see 2 Cal. Code of Regs. § 1183.

§ 17556. Findings

The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:

(a) The claim is submitted by a local agency or school district which requested legislative authority for that local agency or school district to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district which requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this paragraph.

(b) The statute or executive order affirmed for the state that which had been declared existing law or regulation by action of the courts.

(c) The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation.

(d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

(e) The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.

(f) The statute or executive order imposed duties which were expressly included in a ballot measure approved by the voters in a statewide election.

(g) The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

(Added by Stats.1984, c. 1459, § 1. Amended by Stats.1986, c. 879, § 4; Stats.1989, c. 589, § 1.)

Code of Regulations References

Filing request for reimbursement, see 2 Cal Code of Kegs § 1184

Notes of Decisions

Validity 1

1. Validity

This section prohibiting commission on state mandates from finding costs mandated by State if it finds that local government has authority to levy service charges, fees, or assessments sufficient to pay for mandated program or increased level of service is facially constitutional under state constitutional provision requiring State to provide subvention of funds to reimburse local government for costs of state-mandated new program or higher level of service; considered in its context, section effectively and properly construes term "costs" in constitutional provision as excluding expenses that are recoverable from sources other than taxes. County of Fresno v. State (1991) 280 Cal.Rptr. 92, 53 Cal.3d 482, 808 P.2d 235.

§ 17557. Amount to be subvened; parameters and guidelines; allocation formula or uniform allowance; specifying fiscal years for reimbursement, test claim

If the commission determines there are costs mandated by the state pursuant to Section 17555, it shall determine the amount to be subvened to local agencies and school districts for reimbursement. In so doing it shall adopt parameters and guidelines for reimbursement of any claims relating to the statute or executive order. The successful test claimants shall submit proposed parameters and guidelines within 60 days of adoption of a statement of decision on a test claim. At the request of a successful test claimant, the commission may provide for one or more extensions of this 60-day period at any time prior to its adoption of the parameters and guidelines and for any length of time the commission specifies. If proposed parameters and guidelines are not submitted within the 60-day period and the commission has not granted an extension, then the commission shall notify the test claimant that the amount of reimbursement the test claimant is entitled to for the first 12 months of incurred costs will be reduced by 20 percent, unless the test claimant can demonstrate to the commission why an extension of the 60-day period is justified. A local agency, school district, and the state may file a claim or request with the commission to amend, modify, or supplement the parameters or guidelines. The commission may, after public notice and hearing, amend, modify, or supplement the parameters and guidelines.

In adopting parameters and guidelines, the commission may adopt an allocation formula or uniform allowance which would provide for reimbursement of each local agency or school district of a specified amount each year.

The parameters and guidelines adopted by the commission shall specify the fiscal years for which local agencies and school districts shall be reimbursed for

Code of Regulations References

Scheduling the hearing on a test claim, see 2 Cal. Code of Regs. § 1187.
Test claims, see 2 Cal. Code of Regs. § 1183 et seq.

Notes of Decisions

Questions of law 1

1. Questions of law

City was not prejudiced by alleged failure of Commission on State Mandates to hear city's claim for state reimbursement within a reasonable time, or by Commission's acceptance of position papers from Department of Finance that were allegedly submitted late and were not properly served upon city, where issue considered by Commission was one of law, not of fact, and Commission resolved issue correctly. City of El Monte v. Commission on State Mandates (App. 3 Dist. 2000) 99 Cal.Rptr.2d 333, 83 Cal.App.4th 266, rehearing denied, review denied. States ⇐ 111

§ 17556. Findings

Cross References

Local education agencies, Los Angeles Unified School District, report on illegal activity and enforcement power, see Education Code § 35401.

State-mandated special education programs and services; additional revenue, see Education Code § 56836.156.

Notes of Decisions

Ability to collect, water districts 3
Authority, water districts 2
School districts, generally 4
Water districts–Authority 2
Ability to collect 3

2. Water districts–Authority

Water district statute on its face authorized local water districts to levy fees sufficient to pay costs involved with state regulation amendment increasing level of purity required for use of reclaimed wastewater in irrigation, and thus, regulation did not trigger entitlement to reimbursement of local water districts from state for costs of complying with state-mandated increase in purity requirements. Connell v. Superior Court (App. 3 Dist. 1997) 69 Cal.Rptr.2d 231, 59 Cal.App.4th 382, review denied. states ⇐ 111

3. — Ability to collect, water districts

Statute precluding state reimbursement of local agency for cost of program or level of service mandated by state if local agency has "authority" to level sufficient fees is triggered if local agency has power or right to levy fees sufficient to cover costs of state-mandated program, regardless of practical ability of local agency to collect sufficient fees in light of surrounding economic circumstances. Connell v. Superior Court (App. 3 Dist 1997) 69 Cal.Rptr.2d 231, 59 Cal.App.4th 382, review denied. states ⇐ 111

4. School districts, generally

Statute mandating expulsion of student for possessing a firearm at school or at a school activity off school grounds entitled school district to reimbursement of all costs incurred in carrying out mandatory expulsions, including the cost of complying with the mandatory procedures, whether or not the costs exceeded the cost of complying with federal due process requirements; state constitution required the state to reimburse the local government for the costs of a mandatory new program or higher level of service, the due process procedures would not automatically occur in the absence of the mandatory expulsion requirements, and the statutory exception for costs mandated by federal law did not apply. San Diego Unified School Dist. v. Commission on State Mandates (App. 4 Dist. 2002) 122 Cal.Rptr.2d 614, 99 Cal.App.4th 1270.

The term "statute" in statutory provision, which states that a school district's costs are not mandated by the state, if the statute implements a federal law or regulation and results in costs mandated by the federal government, unless the statute mandates costs which exceed the mandate in that federal law or regulation, referred to the test claim statute under which a district could seek reimbursement under the state constitution and, therefore, referred to the mandatory expulsion test claim statute at issue, not the statute which specifies the procedures that a school district must follow in carrying out a mandatory expulsion. San Diego Unified School Dist. v. Commission on State Mandates (App. 4 Dist. 2002) 122 Cal.Rptr.2d 614, 99 Cal.App.4th 1270.

§ 17557. Amount to be subvened; parameters and guidelines; allocation formula or uniform allowance; reimbursement of costs

(a) If the commission determines there are costs mandated by the state pursuant to Section 17555, it shall determine the amount to be subvened to local agencies and school districts for reimbursement. In so doing it shall adopt parameters and guidelines for reimbursement of any claims relating to the statute or executive order. The successful test claimants shall submit proposed parameters and guidelines within 30 days of adoption of a statement of decision on a test claim. At the request of a successful test claimant, the commission may provide for one or more extensions of this 30-day period at any time prior to its adoption of the parameters and guidelines. If proposed parameters and guidelines are not submitted within the 30-day period and the commission has not granted an extension, then the

Cross References

Property of nonprofit and public corporations used exclusively by government, exemptions, see Revenue and Taxation Code § 231.

Notes of Decisions

1. In general

Since nonprofit charitable trust established to maintain and perpetuate a free museum was entitled to claim welfare exemption to exempt museuni building from taxation during period of its construction. trust was properly awarded refund of its 1973–1974 property tax payment. J. Paul Getty Museum v. Los Angeles County (App. 2 Dist.1983) 195 Cal.Rptr. 916, 148 Cal. App.3d 600.

Church lot in congested district used for free parking of automobiles, and affording light and air For church, was exempt from taxation. Immanuel Presbyterian Church v. Payne (App. 2 Dist.1928) 90 Cal.App. 176, 265 P. 547.

2. Course of construction

Where at noon on tax day, some trenches for foundation of a building of the taxpayer qualifying for a tax exemption under Rev. & T.C. §§ 214, 214.1 had been dug and the building was thereafter completed without delay, the building was "in the course of its construction" so as to be entitled to tax exemption. National Charity League, lnc. v. Los Angeles County (App. 1958) 164 Cal.App.2d 241, 330 P.2d 666.

Public ground breaking ceremony held by church which planned construction of new church, and public cornerstone laying ceremony which was held by church and marked beginning of construction, did not constitute use of building by church for religious worship, and where structure was not completed by tax date, and no other services had been held in building up to that date, such building was not exenipt from taxation under provision of Constitution section, that buildings and so much of realty on which they are situated shall be exempt from taxation when used solely and exclusively for religious worship. First Baptist Church of San Fernando v. Los Angeles County (App. 1952) I13 Cal.App.2d 392, 248 P.2d 101.

3. Multiple exemptions

Free museum exemption from taxation and welfare exemption can, under proper circumstances, overlap; thus, potential availability of free museum exemption did not bar nonprofit charitable trust established to maintain and perpetuate free museum from claiming welfare exemption while museum building was under construction if it intended to use building for charitable purposes. J. Paul Getty Museum v. Los Angeles County (App. 2 Dist. 1983) 195 Cal. Rptr. 916, 148 Cal.App.3d 600.

4. Burden of proof

A church-related school has the burden of proving entitlement to the welfare exemption authorized by Const. Art. 13, § 4(d), which permits the legislature to exempt from property taxation property used exclusively for religious, hospital or charitable purposes and owned or held in trust by corporations or other nonprofit entities organized for those purposes, and this section. 62 Ops.Atty.Gen. 690, 11–9–79.

§ 6. Exemptions; classifications; failure to claim; waiver

Sec. 6. The failure in any year to claim, in a manner required by the laws in effect at the time the claim is required to be made, an exemption or classification which reduces a property tax shall be deemed a waiver of the exemption or classification for that year.

(Adopted Nov 5, 1974)

Historical Notes

Former § 6, adopted May 7, 1879, prohibiting surrender of taxing power by grant or contract, was repealed Nov 5, 1974 See Const Art 13, § 31

Notes of Decisions

Construction and application 1

1. Construction and application

This section applies to any claim that does not meet procedural requirements, not just to untimely claims, and, therefore, Legislature could not retrospectively grant exception from recordation requirement of welfare exemption from property taxation. Copren v. State Bd. of Equalization (App. 3 Dist. 1988) 246 Cal.Rptr. 361, 200 Cal.App.3d 828, rehearing denied.

§ 7. Exemptions; real property generating taxes less than cost of assessment and collection

Sec. 7. The Legislature, two-thirds of the membership of each house concurring, may authorize county boards of supervisors to exempt real property having a full value so low that, if not exempt, the total taxes and applicable subventions on the property would amount to less than the cost of assessing and collecting them.

(Adopted Nov 5, 1974)

Historical Notes

Former § 7, adopted May 7, 1879, providing for payment of taxes by installments, was repealed Nov 5, 1974

Cross References

Exemption of low value property, see Revenue and Taxation Code § 155 20

§ 8. Open space lands; enforceable restrictions; valuation; historical property

Sec. 8. To promote the conservation, preservation and continued existence of open space lands, the Legislature may define open space land and shall provide that when this land is enforceably restricted, in a manner specified by the Legislature, to recreation, enjoyment of scenic beauty, use or conservation of natural resources, or production of food or fiber, it shall be valued for property tax purposes only on a basis that is consistent with its restrictions and uses.

To promote the preservation of property of historical significance, the Legislature may define such property and shall provide that when it is enforceably restricted, in a manner specified by the Legislature, it shall be valued for property tax purposes only on a basis that is consistent with its restrictions and uses.

(Adopted Nov. 5, 1974. Amended June 8, 1976.)

Historical Notes

Addition of the second paragraph of this section, proposed by Assembly Const. Amend. No. 111, 1974, was approved by the people at the primary election held June 8. 1976.

The 1976 amendment added the second paragraph, relating to valuation of historical properties.

Section 1 of Stats.1977, c. 1040, p. 3152. provided:

"It is the purpose of this act to implement Proposition 7 (Res. Ch. 198, Stats.1974) on the ballot for the Primary Election held on Tuesday, June 8, 1976, which amended Section 8 of Article XIII of the Constitution of the State of California to authorize the Legislature to define

Indian Housing Authority and operated for the benefit of non-Indians; therefore, whether the land is otherwise exempt from ad valorem property taxation would depend upon state law. Op.Atty.Gen. No. 99–1101 (Aug. 16, 2000).

§ 6. Exemptions; classifications; failure to claim; waiver

Notes of Decisions

1. Construction and application

Constitutional provision treating taxpayer's failure in any year to claim exemption or classification which reduces property tax as waiver of that exemption prevents legislature from granting selective retroactive tax relief to those who had failed to comply with law in any year and thereby to compel local governments to refund taxes for years in which exemptions had been waived as matter of law. Scott v. State Bd. of Equalization (App. 3 Dist. 1996) 58 Cal.Rptr.2d 376, 50 Cal.App.4th 1597. Taxation ⇐ 249

2. One-time claim

Constitutional provision treating taxpayer's failure in any year to claim exemption or classification which reduces property tax as waiver of that exemption does not apply to taxpayer's filing of one-time claim that transfer of property from parent to child was excluded from reassessment of value as waiver provision only applies to exemptions or classifications filed annually. Scott v. State Bd. of Equalization (App. 3 Dist. 1996) 58 Cal.Rptr.2d 376, 60 Cal.App.4th 1597. Taxation ⇐ 249

§ 8. Open space lands; enforceable restrictions; valuation; historical property

Notes of Decisions

3. Property assessment valuations

Revenue and Taxation Code § 423.4, which authorizes property to be assessed at 65 percent of a specified value under the circumstances described therein, does not conflict with Article XIII of the Constitution. 82 Ops.Atty. Gen. 52, 3–10–99.

§ 9. Single-family dwellings; assessment

Cross References

California Twenty–First Infrastructure Investment Fund, appropriations for qualified capital outlay projects for purposes of this section, see Const. Art. XVI A, § 6.

§ 11. Lands owned by local governments and located outside its boundaries; water rights, Inyo and Mono counties

Notes of Decisions

1. Construction with other laws

Under the state constitutional provision which limits the taxation of real property owned by a local government and located outside its jurisdictional boundary, real property owned by a local government and located outside its jurisdictional boundaries cannot be assessed at a higher value than the value at which those same lands would be assessed if owned by a private landowner. County of Los Angeles v. State Bd. of Equalization (App. 4 Dist. 2003) 129 Cal.Rptr.2d 209, 106 Cal.App.4th 1. Taxation ⇐ 44

2. Purpose

The purpose of the state constitutional provision which limits the taxation of real property owned by a local government and located outside its jurisdictional boundary is to ensure comparable taxation of extraterritorial property and privately owned real property. County of Los Angeles v. State Bd. of Equalization (App. 4 Dist. 2003) 129 Cal.Rptr.2d 209, 105 Cal.App.4th 1. Taxation ⇐ 44

9. Limitations on taxation

The state constitutional provision which limits the taxation of real property owned by a local government and located outside its jurisdictional boundary limits the taxation of such extraterritorial property by restricting the maximum valuation of that land. County of Los Angeles v. State Bd. of Equalization (App. 4 Dist. 2003) 129 Cal.Rptr.2d 209,105 Cal.App.4th 1. Taxation ⇐ 44

The state constitutional provision which limits the taxation of real property owned by a local government and located outside its jurisdictional boundary specifically limits its valuation of extraterritorial lands located outside of Mono and Inyo Counties to the lower of either (1) the fair market value as assessed by the taxing county or (2) a figure derived by multiplying the 1967 assessed value times the "Phillips factor" reflecting the general increase in land values in California since 1967. County of Los Angeles v. State Bd. of Equalization (App. 4 Dist. 2003) 129 Cal.Rptr.2d 209, 105 Cal.App.4th 1. Taxation ⇐ 44

The "Phillips factor," for purposes of the state constitutional provision which limits the taxation of real property owned by a local government and located outside its jurisdictional boundary, is the ratio of the statewide per capita assessed value of land, as of the last lien date prior

tial compliance with statutory requirements does not involve examination of merits of element or of wisdom of municipality's determination of policy; if municipality has substantially complied with statutory requirements, reviewing court will not interfere with municipality's legislative action in updating or amending elements of its general plan, unless action was arbitrary or capricious or entirely lacking in evidentiary support. Black Property Owners Ass'n v. City of Berkeley (App. 1 Dist. 1994) 28 Cal.Rptr.2d 305, 22 Cal.App.4th 974, review denied.

Local government's adoption of revision of housing element of general plan for physical development is reviewable for substantial compliance with applicable statutes. Black Property Owners Ass'n v. City of Berkeley (App. 1 Dist. 1994) 28 Cal.Rptr.2d 305, 22 Cal.App.4th 974, review denied.

§ 65583.1. Housing element: identification of sites; closed military bases

(a) The Department of Housing and Community Development, in evaluating a proposed or adopted housing element for consistency with state law, may allow a local government to identify adequate sites, as required pursuant to Section 65583, by a variety of methods, including, but not limited to, redesignation of property to a more intense land use category and increasing the density allowed within one or more categories. Nothing in this section reduces a local government's responsibility to identify, by income category, the total number of sites for residential development as required by this article.

(b) Sites that contain permanent housing units located on a military base undergoing closure or conversion may be identified as an adequate site provided the housing element demonstrates that the housing units will be available for occupancy by households within the planning period of the element. No sites containing housing units scheduled or planned for demolition or conversion to nonresidential uses shall qualify as an adequate site.

Any city, city and county, or county using this subdivision shall address the progress in meeting this section in the reports provided pursuant to paragraph (1) of subdivision (b) of Section 65400.

(Added by Stats.1992, c. 1074 (A.B.2707), § 1. Amended by Stats.1993, c. 589 (A.B. 2211), § 79; Stats.1996, c. 347 (A.B.3125), § 1.)

§ 65584. Share of city or county of regional housing needs; determination and distribution: revision

(a) For purposes of subdivision (a) of Section 65583, the share of a city or county of the regional housing needs includes that share of the housing need of persons at all income levels within the area significantly affected by a general plan of the city or county. The distribution of regional housing needs shall, based upon available data take into consideration market demand for housing, employment opportunities, the availability of suitable sites and public facilities, commuting patterns, type and tenure of housing need, the loss of units contained in assisted housing developments, as defined in paragraph (8) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions, and the housing needs of fannworkers. The distribution shall seek to reduce the concentration of lower income households in cities or counties which already have disproportionately high proportions of lower income households. Based upon data provided by the Department of Finance,

in consultation with each council of government, the Department of Housing and Community Development shall determine the regional share of the statewide housing need at least two years prior to the second revision, and all subsequent revisions as required pursuant to Section 65588. Based upon data provided by the department relative to the statewide need for housing, each council of governments shall determine the existing and projected housing need for its region. Within 30 days following notification of this determination, the department shall ensure that this determination is consistent with the statewide housing need. The department may revise the determination of the council of governments if necessary to obtain this consistency. The appropriate council of governments shall determine the share for each city or county consistent with the criteria of this subdivision and with the advice of the department subject to the procedure established pursuant to subdivision (c) at least one year prior to the second revision, and at five-year intervals following the second revision pursuant to Section 65588. The council of governments shall submit to the department information regarding the assumptions and methodology to be used in allocating the regional housing need. As part of the allocation of the regional housing need, the council of governments, or the department pursuant to subdivision (b), shall provide each city and county with data describing the assumptions and methodology used in calculating its share of the regional housing need. The department shall submit to each council of governments information regarding the assumptions and methodology to be used in allocating the regional share of the statewide housing need. As part of its determination of the regional share of the statewide housing need, the department shall provide each council of governments with data describing the assumptions and methodology used in calculating its share of the statewide housing need. The councils of governments shall provide each city and county with the department's information.

(b) For areas with no council of governments, the department shall determine housing market areas and define the regional housing need for cities and counties within these areas pursuant to the provisions for the distribution of regional housing needs in subdivision (a). Where the department determines that a city or county possesses the capability and resources and has agreed to accept the responsibility, with respect to its jurisdiction, for the identification and determination of housing market areas and regional housing needs, the department shall delegate this responsibility to the cities and counties within these areas.

(c) (1) Within 90 days following a determination of a council of governments pursuant to subdivision (a), or the department's determination pursuant to subdivision (b), a city or county may propose to revise the determination of its share of the regional housing need in accordance with the considerations set forth in subdivision (a). The proposed revised share shall be based upon available data and accepted planning methodology, and supported by adequate documentation.

(2) Within 60 days after the time period for the revision by the city or county, the council of governments or the department, as the case may be, shall accept the proposed revision, modify its earlier determination, or indicate,

based upon available data and accepted planning methodology, why the proposed revision is inconsistent with the regional housing need.

(A) If the council of governments or the department, as the case may be, does not accept the proposed revision, then the city or county shall have the right to request a public hearing to review the determination within 30 days.

(B) The city or county shall be notified within **30** days by certified mail, return receipt requested, of at least one public hearing regarding the determination.

(C) The date of the hearing shall be at least 30 days from the date of the notification.

(D) Before making its final determination, the council of governments or the department, as the case may be, shall consider comments, recommendations, available data, accepted planning methodology, and local geological and topographic restraints on the production of housing.

(3) If the council of governments or the department accepts the proposed revision or modifies its earlier determination, the city or county shall use that share. If the council of governments or the department grant a revised allocation pursuant to paragraph (1), the council of governments or the department shall ensure that the current total housing need is maintained. If the council of governments or department indicates that the proposed revision is inconsistent with the regional housing need, the city or county shall use the share which was originally determined by the council of governments or the department.

(4) The determination of the council of governments or the department, as the case may be, shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

(5) The council of governments or the department shall reduce the share of regional housing needs of a county if all of the following conditions are met:

(A) One or more cities within the county agree to increase its share or their shares in an amount which will make up for the reduction.

(B) The transfer of shares shall only occur between a county and cities within that county.

(C) The county's share of low-income and very low income housing shall be reduced only in proportion to the amount by which the county's share of moderate- and above moderate-income housing is reduced.

(D) The council of governments or the department, whichever assigned the county's share, shall have authority over the approval of the proposed reduction, taking into consideration the criteria of subdivision (a) of Section 65584.

(6) The housing element shall contain an analysis of the factors and circumstances, with all supporting data, justifying the revision. **All** materials and data used to justify any revision shall be made available upon request by any interested party within seven days upon payment of reasonable costs of reproduction unless the costs are waived due to economic hardship.

(d)(1) Except as provided in paragraph (2), any ordinance, policy, or standard of a city or county which directly limits, by number, the building permits which may be issued for residential construction, or which limits for a set period of time the number of buildable lots which may be developed for residential purposes, shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

(2) Paragraph (1) does not apply to any city or county which imposes a moratorium on residential construction for a set period of time in order to preserve and protect the public health and safety. If a moratorium is in effect, the city or county shall, prior to a revision pursuant to subdivision (c), adopt findings which specifically describe the threat to the public health and safety and the reasons why construction of the number of units specified as its share of the regional housing need would prevent the mitigation of that threat.

(e) Any authority to review and revise the share of a city or county of the regional housing need granted under this section shall not constitute authority to revise, approve, or disapprove the manner in which the share of the city or county of the regional housing need is implemented through its housing program.

(f) A fee may be charged interested parties for any additional costs caused by the amendments made to subdivision (c) by Chapter 1684 of the Statutes of 1984 reducing from 45 to seven days the time within which materials and data shall be made available to interested parties.

(g) Determinations made by the department, a council of governments, or a city or county pursuant to this section are exempt from the provisions of the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code.

(Added by **Stats.1980, c. 1143, p. 3697, § 3.** Amended by **Stats.1984, c. 1684, § 1; Stats.1989, c. 1451, § 2; Stats.1990, c. 1441 (S.B.2274), § 4.)**

Historical and Statutory Notes

Section 5 of **Stats.** 1989, c. 1451, provides:

"Section 3.5 of this bill incorporates amendments to Section 63384 of the Government Code [Section 3 amends Section 655841 proposed by both this bill and SB 966 [vetoed]. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1990, (2) each bill amends Section 65584 of the Government Code, and (3) this bill is enacted after SB 966, in which case Section 2 of this bill shall not become operative."

Amendment of this section by § 4.5 of Stats. 1990, c. 1441, failed to become operative under the provisions of § 9 of that Act.

Law Review and Journal Commentaries

Why our fair share housing laws fail. Ben Field, Santa Clara L.Rev. 35 (1993).

Notes of Decisions

1. Existing and projected housing needs

Determination of a locality's share of regional housing needs by a council of governments must include both the existing and projected

housing needs of the locality. 70 Ops.Atty.Gen. 231, 9–29–87.

2. Availability of sites

As regards determination of a locality's share of regional housing needs by a council of governments, the availability of suitable housing sites must be considered based not only upon existing zoning ordinances and land use restrictions of the locality, but also upon the potential for increased residential development under alternative zoning ordinances and land use restrictions. 70 Ops.Atty.Gen. 231, 9–29–87.

3. Income classifications

Income categories of Sections 6910–6932 of Title 25 of the California Administrative Code must be used by a council of governments when determining a locality's share of regional housing needs. 70 Ops.Atty.Gen. 231, 9–29–87.

4. Review

In determining whether local open space ordinance accommodated regional housing interests, trial court was not required to consider cumulative effect of ordinance and town's other land use restrictions. Northwood Homes, Inc. v. Town of Moraga (App. 1 Dist. 1989) 265 Cal.Rptr. 363, 216 Cal.App.3d 1197.

Evidence was sufficient to establish that local open space ordinance had only minimal effect on regional housing supply in determining whether ordinance accommodated regional housing interests; evidence indicated that ordinance would result in reduction of only 113 housing units. Northwood Homes, Inc. v. Town of Moraga (App. 1 Dist. 1989) 265 Cal. Rptr. 363, 216 Cal.App.3d 1197.

§ 65584.3. Los Angeles county; cities without residentially zoned lands: adoption of housing element: transfer of tax increment funds for low- and moderate-income housing; use of funds

(a) A city that is incorporated to promote commerce and industry, that is located in the County of Los Angeles, and that has no residentially zoned land within its boundaries on January 1, 1992, may elect to adopt a housing element that makes no provision for new housing or the share of regional housing needs as determined pursuant to Section 65584 for the current and subsequent revisions of the housing element pursuant to Section 65588, for the period of time that 20 percent of all tax increment revenue accruing from all redevelopment projects, and required to be set aside for low- and moderate-income housing pursuant to Section 33334.2 of the Health and Safety Code, is annually transferred to the Housing Authority of the County of Los Angeles.

(b)(1) The amount of tax increment to be transferred each year pursuant to subdivision (a) shall be determined at the end of each fiscal year, commencing with the 1992–93 fiscal year. This amount shall be transferred within 30 days of the agency receiving each installment of its allocation of tax increment moneys, commencing in 1993.

(2) On or before December 31, 1992, the agency shall make an additional payment to the Housing Authority of the County of Los Angeles which eliminates any indebtedness to the low- and moderate-income housing fund pursuant to Section 33334.3. This amount shall be reduced by any amount actually expended by the redevelopment agency for principal or interest payments on agency bonds issued prior to the effective date of the act which adds this section, when that portion of the agency's tax increment revenue representing the low- and moderate-income housing set-aside funds was lawfully pledged as security for the bonds, and only to the extent that other tax increment revenue in excess of the 20 percent low- and moderate-income set-aside funds is insufficient in that fiscal year to meet in full the principal and interest payments.

§ 65584. Share of city or county of regional housing needs; determination and distribution; revision

(a) For purposes of subdivision (a) of Section 66683, the share of a city or county of the regional housing needs includes that share of the housing need of persons at all income levels within the area significantly affected by a general plan of the city or county. The distribution of regional housing needs shall, based upon available data, take into consideration market demand for housing, employment opportunities, the availability of suitable sites and public facilities, commuting patterns, type and tenure of housing need, the loss of units contained in assisted housing developments, as defined in paragraph (8) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions, and the housing needs of farmworkers. The distribution shall seek to reduce the concentration of lower income households in cities or counties that already have disproportionately high proportions of lower income households. Based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, and in consultation with each council of governments, the Department of Housing and Community Development shall determine the regional share of the statewide housing need at least two years prior to the second revision, and all subsequent revisions as required pursuant to Section 65588. Based upon data provided by the department relative to the statewide need for housing, each council of governments shall determine the existing and projected housing need for its region. Within 30 days following notification of this determination, the department shall ensure that this determination is consistent with the statewide housing need. The department may revise the determination of the council of governments if necessary to obtain this consistency. The appropriate council of governments shall determine the share for each city or county consistent with the criteria of this subdivision and with the advice of the department subject to the procedure established pursuant to subdivision (c) at least one year prior to the second revision, and at five-year intervals following the second revision pursuant to Section 65588. The council of governments shall submit to the department information regarding the assumptions and methodology to be used in allocating the regional housing need. As part of the allocation of the regional housing need, the council of governments, or the department pursuant to subdivision (b), shall provide each city and county with data describing the assumptions and methodology used in calculating its share of the regional housing need. The department shall submit to each council of governments information regarding the assumptions and methodology to be used in allocating the regional share of the statewide housing need. As part of its determination of the regional share of the statewide housing need, the department shall provide each council of governments with data describing the assumptions and methodology used in calculating its share of the statewide housing need. The council of governments shall provide each city and county with the department's information. The council of governments shall provide a subregion with its share of the regional housing need, and delegate responsibility for providing allocations to cities and a county or counties in the subregion to a subregional entity if this responsibility is requested by a county and all cities in the county, a joint powers authority established pursuant to Chapter 6 (commencing with Section 6500) of Division 7 of Title 1, or the governing body of a subregional agency established by the council of governments, in accordance with an agreement entered into between the council of governments and the subregional entity that sets forth the process, timing, and other terms and conditions of that delegation of responsibility.

(b) For areas with no council of governments, the department shall determine housing market areas and define the regional housing need for cities and counties within these areas pursuant to the provisions for the distribution of regional housing needs in subdivision (a). If the department determines that a city or county possesses the capability and resources and has agreed to accept the responsibility, with respect to its jurisdiction, for the identification and determination of housing market areas and regional housing needs, the department shall delegate this responsibility to the cities and counties within these areas.

(c)(1) Within 90 days following a determination of a council of governments pursuant to subdivision (a), or the department's determination pursuant to subdivision (b), a city or county may propose to revise the determination of its share of the regional housing need in accordance with the considerations set forth in subdivision (a). The proposed revised share shall be based upon available data and accepted planning methodology, and supported by adequate documentation.

(2) Within 60 days after the time period for the revision by the city or county, the council of governments or the department, as the case may be, shall accept the proposed revision, modify its earlier determination, or indicate, based upon available data and accepted planning methodology, why the proposed revision is inconsistent with the regional housing need.

(A) If the council of governments or the department, as the case may be, does not accept the proposed revision, then the city or county shall have the right to request a public hearing to review the determination within 30 days.

(B) The city or county shall he notified within 30 days by certified mail, return receipt requested, of at least one public hearing regarding the determination.

(C) The date of the hearing shall be at least 30 days from the date of the notification.

(D) Before making its final determination, the council of governments or the department, as the case may be, shall consider comments, recommendations, available data, accepted planning methodology, and local geological and topographical restraints on the production of housing.

(3) If the council of governments or the department accepts the proposed revision or modifies its earlier determination, the city or county shall use that share. If the council of governments or the department grants a revised allocation pursuant to paragraph (1), the council of governments or the department shall ensure that the current total housing need is maintained. If the council of governments or the department indicates that the proposed revision is inconsistent with the regional housing need, the city or county shall use the share that was originally determined by the council of governments or the department.

(4) The determination of the council of governments or the department, as the case may he, shall he subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

(5) The council of governments or the department shall reduce the share of regional housing needs of a county if all of the following conditions are met:

(A) One or more cities within the county agree to increase its share or their shares in an amount that will make up for the reduction.

(B) The transfer of shares shall only occur between a county and cities within that county

(C) The county's share of low-income and very low income housing shall be reduced only in proportion to the amount by which the county's share of moderate- and above moderate-income housing is reduced.

(D) The council of governments or the department, whichever assigned the county's share, shall have authority over the approval of the proposed reduction, taking into consideration the criteria of subdivision (a).

(6) The housing element shall contain an analysis of the factors and circumstances, with all supporting data, justifying the revision. All materials and data used to justify any revision shall he made available upon request by any interested party within seven days upon payment of reasonable costs of reproduction unless the costs are waived due to economic hardship.

(d)(1) In the event an incorporation of a new city occurs after the council of governments, or the department for areas with no council of governments, has made its final allocation under this section, the city and county may reach a mutually acceptable agreement on a revised determination and report the revision to the council of governments and the department, or to the department fpr areas with no council of governments. If the affected parties cannot reach a mutually acceptable agreement, then either party may request the council of governments, or the department for areas with no council of governments, to consider the facts, data, and methodology presented by both parties and make the revised determination. The revised determination shall be made within one year of the incorporation of the new city based upon the methodology described in subdivision (a) and shall reallocate a portion of the affected county's share of regional housing needs to the new city. The revised determination shall neither reduce the total regional housing need nor change the previous allocation of the regional housing needs assigned by the council of governments or the department, where there is no council of governments, to other cities within the affected county.

(2) Except as provided in paragraph (3), any ordinance, policy, or standard of a city or county that directly limits, by number, the building permits that may be issued for residential construction, or limits for a set period of time the number of buildable lots that may he developed for residential purposes, shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

(3) Paragraph (2) does not apply to any city or county that imposes a moratorium on residential construction for a specified period of time in order to preserve and protect the public health and safety. If a moratorium is in effect, the city or county shall, prior to a revision pursuant to subdivision (c), adopt findings that specifically describe the threat to the public health and safety and the reasons why construction of the number of units specified as its share of the regional housing need would prevent the mitigation of that threat.

(e) Any authority to review and revise the share of a city or county of the regional housing need granted under this section shall not constitute authority to revise, approve, or disapprove the manner in which the share of the city or county of the regional housing need is implemented through its housing program.

(f) A fee may be charged to interested parties for any additional costs caused by the amendmenta made to subdivision (c) by Chapter 1684 of the Statutes of 19% reducing from 46 to 7 days the time within which materials and data shall be made available to interested parties.

(g) Determinations made by the department, a council of governments, or a city or county pursuant to this section are exempt from the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code.

(Added by Stats.1980, c. 1143, p. 3697, § 3. Amended by Stats.1984, c. 1684, § 1; Stats.1989, c. 1451, § 2; Stats.1990, c. 1441 (S.B.2274), § 4; Stats.1998, c. 796 (A.B.438), § 4; Stats.2001, c. 169 (S.B.662), § 121; Stats.2003, c. 760 (A.B.668), § 1.)

Historical and Statutory Notes

1998 Legislation

For statement of legislative intent of Stats.1998, c.796, see Government Code § 65400.

2001 Legislation

Subordination of legislation by Stats.2001, c. 169 (S.B. 662), to other 2001 legislation, see Historical and Statutory Notes under Business and Professions Code § 27.

Cross References

Housing for persons of low income and persons and families of moderate income, use of *tax* allocations, see Government Code § 8191.

Law Review and Journal Commentaries

In defense of inclusionary zoning: Successfully creating affordable housing. 36 U.S.F.L.Rev. 971 (2002).

Does the Costa-Hawkins Act prohibit local inclusionary zoning programs? Nadia I. El Mallakh, 89 Cal.L.Rev. 1847 (December 2001).

Library References

Additional References

Planning For Affordable Housing: What Do the 90s Hold. 1 CEB Land Use Forum 9.

Significant new state legislation enacted in 1990. CEB Real Prop L Rep Vol. 14 No. 2 p 45.

§ 65584.3. Los Angeles county; cities without residentially zoned lands; adoption of housing element; transfer of tax increment funds for low- and moderate-income housing; use of funds

(a) A city that is incorporated to promote commerce and industry, that is located in the County of Los Angeles, and that has no residentially zoned land within ita boundaries on January 1, 1992, may elect to adopt a housing element that makes no provision for new housing or the share of regional housing needs as determined pursuant to Section 65584 for the current and subsequent revisions of the housing element pursuant to Section 65588, for the period of time that 20 percent of all tax increment revenue accruing from all redevelopment projects, and required to be set aside for low- and moderate-income housing pursuant to Section 33334.2 of the Health and Safety Code, is annually transferred to the Housing Authority of the County of Los Angeles.

(b)(1) The amount of tax increment to be transferred each year pursuant to subdivision (a) shall be determined at the end of each fiscal year, commencing with the 1992–93 fiscal year. 'This amount shall be transferred within 30 days of the agency receiving each installment of its allocation of tax increment moneys, commencing in 1993.

(2) On or before December 31, 1992, the agency shall make an additional payment to the Housing Authority of the County of Los Angeles that eliminates any indebtedness to the low- and moderate-income housing fund pursuant to Section 33334.3. This amount shall be reduced by any amount actually expended by the redevelopment agency for principal or interest payments on agency bonds issued prior to the effective date of the act that adds this section, when that portion of the agency's tax increment revenue representing the low- and moderate-income housing set-aside funds was lawfully pledged as security for the bonds, and only to the extent that other tax increment revenue in excess of the 20-percent low- and moderate-income set-aside funds is insufficient in that fiscal year to meet in full the principal and interest payments.

(c) The Department of Housing and Community Development shall annually review the calculation and determination of the amount transferred pursuant to subdivisions (a) and (b). 'he department may conduct an audit of these funds if and when the Director of Housing and Community Development deems an audit appropriate.

Senate Bill No. 1777

CHAPTER 818

An act to amend Section 65584.1 of the Government Code, and to amend Sections 17021.6, 18021.7, 50451, 50452, and 50453 of, and to repeal Section 50524 of, the Health and Safety Code, relating to the statewide housing plan.

[Approved by Governor September 27, 2004. Filed with Secretary of State September 27, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1777, Ducheny. California Statewide Housing Plan.

(1) Existing law authorizes a council of governments to charge a fee to local governments to cover the projected reasonable, actual costs of the council in distributing regional housing needs. A city, county, or city and county may charge a fee to support the work of the planning agency and to reimburse it for the cost of any fee charged by the council of governments.

This bill would instead authorize the city, county, or city and county to charge a fee not to exceed the amount charged in the aggregate to the city, county, or city and county by the council of governments.

(2) The existing Employee Housing Act deems employee housing providing accommodations for 12 or fewer employees an agricultural land use for designated purposes.

This bill, instead, would deem employee housing consisting of no more than 12 beds in a group quarters or 12 units or spaces designed for use by a single family or household, an agricultural land use for those designated purposes.

(3) Existing law requires the California Statewide Housing Plan to include housing development goals for the fiscal year the plan is revised and projected 4 additional fiscal years ahead, as well as goals for the provision of housing assistance for the fiscal year the plan is revised and projected 4 additional fiscal years ahead.

This bill would, instead, require the plan to include a description of the statewide need for housing development for the year the plan is revised and projected 4 additional years ahead and would revise the housing assistance goals requirement, as specified.

(4) Existing law requires the Department of Housing and Community Development to biennially update and provide a revision of the plan to the Legislature.

This bill would, instead, require the Department of Housing and Community Development to update and provide a revision to the Legislature by January 1,2006, by January 1,2009, and every 4 years thereafter.

(5) Existing law requires the plan to provide a database for local housing market studies and serve as a guide for local housing elements.

This bill would require the plan to provide a reference guide for local market studies and for local housing elements.

The ***people*** *of the State of California do enact as follows:*

SECTION 1. Section 65584.1 of the Government Code is amended to read:

65584.1. Councils of government may charge a fee to local governments to cover the projected reasonable, actual costs of the council in distributing regional housing needs pursuant to this article. Any fee shall not exceed the estimated amount required to implement its obligations pursuant to Section 65584. A city, county, or city and county may charge a fee, not to exceed the amount charged in the aggregate to the city, county, or city and county by the council of governments, to reimburse it for the cost of the fee charged by the council of government to cover the council's actual costs in distributing regional housing needs. The legislative body of the city, county, or city and county shall impose the fee pursuant to Section 66016, except that if the fee creates revenue in excess of actual costs, those revenues shall be refunded to the payers of the fee.

SEC. 2. Section 17021.6 of the Health and Safety Code is amended to read:

17021.6. (a) The owner of any employee housing who has qualified or intends to qualify for a permit to operate pursuant to this part may invoke this section.

(b) Any employee housing consisting of no more than 12 beds in a group quarters or 12 units or spaces designed for use by a singe family or household shall be deemed an agricultural land use designation for the purposes of this section. For the purpose of all local ordinances, employee housing shall not be deemed a use that implies that the employee housing is an activity that differs in any other way from an agricultural use. No conditional use permit, zoning variance, or other zoning clearance shall be required of this employee housing that is not required of any other agricultural activity in the same zone. The permitted occupancy in employee housing in an agricultural zone shall include agricultural employees who do not work on the property where the employee housing is located.

(c) Except as otherwise provided in this part, employee housing consisting of no more than 12 beds in a group quarters or 12 units or spaces designed for use by a single family or household shall not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other agricultural activities in the same zone are not likewise subject. Nothing in this subdivision shall be construed to forbid the imposition of local property taxes, fees for water services and garbage collection, fees for normal inspections, local bond assessments, and other fees, charges, and assessments to which other agricultural activities in the same zone are likewise subject. Neither the State Fire Marshal nor any local public entity shall charge any fee to the owner, operator, or any resident for enforcing fire inspection regulation pursuant to state law or regulation or local ordinance, with respect to employee housing that serves 12 or fewer persons.

(d) For the purposes of any contract, deed, or covenant for the transfer of real property, employee housing consisting of no more than 12 beds in a group quarters or 12 units or spaces designed for use by a single family or household shall be considered an agricultural use of property, notwithstanding any disclaimers to the contrary. For purposes of this section, "employee housing" includes employee housing defined in subdivision (b) of Section 17008, even if the housing accommodations or property are not located in a rural area, as defined by Section 50101.

(e) The Legislature hereby declares that it is the policy of this state that each county and city shall permit and encourage the development and use of sufficient numbers and types of employee housing facilities as are commensurate with local need. This section shall apply equally to any charter city, general law city, county, city and county, district, and any other local public entity.

(f) If any owner who invokes the provisions of this section fails to maintain a permit to operate pursuant to this part throughout the first 10 consecutive years following the issuance of the original certificate of occupancy, both of the following shall occur:

(1) The enforcement agency shall notify the appropriate local government entity.

(2) The public agency that has waived any taxes, fees, assessments, or charges for employee housing pursuant to this section may recover the amount of those taxes, fees, assessments, or charges from the landowner, less 10 percent of that amount for each year that a valid permit has been maintained.

(g) Subdivision (f) shall not apply to an owner of any prospective, planned, or unfinished employee housing facility who has applied to the appropriate state and local public entities for a permit to construct or operate pursuant to this part prior to January 1, 1996.

SEC. 3. Section 18021.7 of the Health and Safety Code is amended to read:

18021.7. (a) (1) In addition to other remedies provided in this part, the Director of Housing and Community Development or his or her designee may issue a citation that assesses a civil penalty payable to the department to any licensee who violates Section 18021.5, 18029.6, or 18030, subdivision (b) of Section 18032, Section 18035, 18035.1, 18035.2, 18035.3, 18036, 18039, 18045, 18045.5, 18045.6, 18046, or 18058, subdivision (a) of Section 18059, subdivision (b) of Section 18059.5, subdivision (c) of Section 18060, subdivision (c) of Section 18060.5, Section 18061, subdivision (d), (i), or (j) of Section 18061.5, subdivision (a) or (b) of Section 18062, subdivision (a), (b), (d), (e), (f), (g), or (h) of Section 18062.2, subdivision (c) of Section 18063, or Section 18080.5.

(2) A violation of subdivision (d) of Section 18060.5 is also cause for citation if both the dealer and the manufacturer receive written notice of a warranty complaint from the complainant, from the department, or another source of information, and, at a minimum, the 90-day period provided for correction of substantial defects pursuant to Section 1797.7 of the Civil Code has expired.

(3) Each citation and related civil penalty assessment shall be issued no later than one year after discovery of the violation.

(b) The amount of any civil penalty assessed pursuant to subdivision (a) shall be one hundred dollars ($100) for each violation, but shall be increased to two hundred fifty dollars ($250) for each subsequent violation of the same prohibition for which a citation for the subsequent violation is issued within one year of the citation for the previous violation. The violation or violations giving cause for the citation shall be corrected if applicable, and payment of the civil penalty shall be remitted to the department within 45 days of the date of issuance of the citation. Civil penalties received by the department pursuant to this section shall be deposited in the Mobilehome-Manufactured Home Revolving Fund.

(c) Any person or entity served a citation pursuant to this section may petition for, and shall be granted, an informal hearing before the director or his or her designee. The petition shall be a written request briefly stating the grounds for the request. Any petition to be considered shall be received by the department within 30 days of the date of issuance of the citation.

(d) Upon receipt of a timely and complying petition, the department shall suspend enforcement of the citation and set a time and place for the informal hearing and shall give the licensee written notice thereof. The hearing shall commence no later than 30 days following receipt of the

petition or at another time scheduled by the department pursuant to a request by the licensee or department if good and sufficient cause exists. If the licensee fails to appear at the time and place scheduled for the hearing, the department may notify the licensee in writing that the petition is dismissed and that compliance with terms of the citation shall occur within 10 days after receipt of the notification.

(e) The department shall notify the petitioner in writing of its decision and the reasons therefor within 30 days following conclusion of the informal hearing held pursuant to this section. If the decision upholds the citation, in whole or in part, the licensee shall comply with the citation in accordance with the decision within 30 days after the decision is mailed by the department.

(f) Nothing in this section shall be construed to preclude remedies available under other provisions of law.

SEC. **4.** Section 50451 of the Health and Safety Code is amended to read:

50451. The California Statewide Housing Plan shall incorporate a statement of housing goals, policies, and objectives, as well as all of the following segments:

(a) An evaluation and *summary* of housing conditions throughout the state, with particular emphasis upon the availability of housing for all economic segments of the state. The evaluation shall include *summary* statistics for all counties, all multicounty metropolitan areas, and rural areas, as defined and designated by the Bureau of the Census of the United States Department of Commerce, rather than as defined in Section 50101. The evaluation shall include the existing distribution of housing by type, size, gross rent, value, and, to the extent data is available, condition, and the existing distribution of households by gross income, size, and ethnic character for each of those areas.

(b) **A** determination of the statewide need for housing development for the year the plan is revised and projected four additional years ahead. The determination of statewide need shall be established as the minimum number of units necessary to be built or rehabilitated in order to provide sufficient housing to house all residents of the state in standard, uncrowded units in suitable locations.

(c) Goals for the provision of housing assistance for the year the plan is revised and projected four additional years ahead. The goals shall be established as the minimum number of households to be assisted that will result in achieving, by the fourth subsequent year, a substantial reduction in the number of very low income households and other persons and families of low or moderate income constrained to pay more than 30 percent of their gross income for housing. Income groups to be considered in establishing the goals shall be designated by the

department and shall include households a significant number of which are required to pay more than **30** percent of their gross income for housing in the fiscal year the plan is revised, as determined by the department.

(d) An identification of governmental and nongovernmental constraints and obstacles and specific recommendations for their removal.

(e) An analysis of state and local housing and building codes and their enforcement. The analysis shall include consideration of whether those codes contain sufficient flexibility to respond to new methods of construction and new materials.

(f) Recommendations for actions by federal, state, and local governments and the private sector that will contribute to the attainment of the housing goals established for California.

(g) A housing strategy that coordinates the housing assistance and activities of state and local agencies, including the provision of housing assistance for various population groups including, but not limited to, elderly persons, persons with disabilities, large families, families where a female is the head of the household, farmworker households, and other specific population groups as deemed appropriate by the department. To inform the strategy, the department shall, to the extent possible, do the following:

(1) Consider information compiled by the University of California pursuant to Section 9101.5 of the Welfare and Institutions Code, and from provider and consumer organizations as available.

(2) Consult with various state departments, including the California Department of Aging, the State Department of Social Services, the State Department of Health Services, the State Department of Mental Health, the Employment Development Department, the State Department of Developmental Services, and other state departments or agencies to obtain information deemed relevant to the housing needs of populations addressed in the housing strategy. This paragraph shall not be construed to require activity beyond the customary scope of the department's planning process.

(h) A review of housing assistance policies, goals, and objectives affecting the homeless.

SEC. 5. Section 50452 of the Health and Safety Code is amended to read:

50452. The department shall update and provide a revision of the California Statewide Housing Plan to the Legislature by January 1, 2006, by January 1,2009, and every four years thereafter. The revisions shall contain all of the following segments:

(a) A comparison of the housing need for the preceding four years with the amount of building permits issued and mobilehome units sold in those fiscal years.

(b) A revision of the determination of the statewide need for housing development specified in subdivision (b) of Section 50451 for the current year and projected four additional years ahead.

(c) A revision of the housing assistance goals specified in subdivision (c) of Section 50451 for the current year and projected four additional years ahead.

(d) **A** revision of the evaluation required by subdivision (a) of Section 50451 as new census or other survey data become available. The revision shall contain an evaluation and summary of housing conditions throughout the state and may highlight data for multicounty or regional areas, as determined by the department. The revision shall include a discussion of the housing needs of various population groups, including, but not limited to, the elderly persons, disabled persons, large families, families where a female is the head of the household, and farmworker households.

(e) An updating of recommendations for actions by federal, state, and local governments and the private sector which will facilitate the attainment of housing goals established for California.

The Legislature may review the plan and the updates of the plan and transmit its comments on the plan or updates of the plan to the Governor, the Secretary of the Business, Transportation, and Housing Agency, and the Director of Housing and Community Development.

SEC. **6.** Section 50453 of the Health and Safety Code is amended to read:

50453. The California Statewide Housing Plan developed pursuant to Section 50450 shall provide a reference guide for local housing market studies and for local housing elements required by Section 65302 of the Government Code. It is also intended to provide a framework for local housing plans.

SEC. 7. Section 50524 of the Health and Safety Code is repealed.

O

Senate Bill No. 1102

CHAPTER 227

An act to amend Sections 352, 18800, 23095, and 25658.1 of the Business and Professions Code, to add and repeal Section 3294.5 of the Civil Code, to amend Sections 215,405.20, 405.22, 1021.8, and 1502 of the Code of Civil Procedure, to amend Section 1502.5 of the Corporations Code, to add Article 20.5 (commencing with Section 69999.6) to Chapter 2 of Part 42 of the Education Code, to amend Sections 10404.5 and 10405.7 of the Elections Code, to add Section 221.1 to the Food and Agricultural Code, to amend Sections 905.2, 910.4, 910.8, 911, 11011, 11011.1, 11011.2, 11011.3, 11011.4, 11011.5, 11011.6, 11011.8, 11011.9, 11794, 12012.90, 12152, 12439, 12715, 13332.11, 13332.19, 13923, 14612.2, 14661, 15201, 16182, 16320, 16351, 16427, 23344, 27297.5, 29550, 30070, 63021.5, 65583, 69926.5, 69957, 71601, 71630, 71636, 71639.3, 71823, and 77202 of, to amend and repeal Section 29550.4 of, to add Sections 14604,65584.1, 65584.2, 68511.8, 69958, 71639.4, 71639.5, 71825.1, and 71825.2 to, to add and repeal Sections 8690.6, 11011.10, and 12432 of, to repeal Sections 11006 and 13332.04of, and to repeal and add Sections 71639.1 and 71825 of, the Government Code, to amend Sections 50710.1 and 53533 of, and to add Section 13138 to, the Health and Safety Code, to amend Section 2065 of the Labor Code, to amend Sections 4750,4751, 4752,4753, and 6005 of, and to add Sections 4751.5, 4753.5, and 5023.5 to, the Penal Code, to add Section 10108.8to the Public Contract Code, to amend Sections 25630 and 26020 of, and to add Section 25226 to, the Public Resources Code, to add Section 884.5 to the Public Utilities Code, to amend Sections 63.1, 2514, 8352, and 30462 of the Revenue and Taxation Code, to amend Section 1587 of the Unemployment Insurance Code, to amend Section 21401 of, and to repeal Section 42272, of the Vehicle Code, to amend Section 3 of Chapter 899 of the Statutes of 1995, and to amend Section 30 of Chapter 573 of the Statutes of 2003, relating to state government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 16,2004. Filed with Secretary of State August 16, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1102, Committee on Budget and Fiscal Review. General government.

(1) Existing law prescribes certain duties of the Department of Consumer Affairs relating to privacy protection.

This bill would authorize funding sources other than the General Fund to be used for that activity.

(1.5) Existing law, the Boxing Act, provides for the regulation of boxing, martial arts, and kickboxing contests by the State Athletic Commission. Existing law requires every person who conducts a boxing contest or wrestling exhibition to furnish to the commission a report showing the number of tickets sold and gross receipts, and the amount of broadcasting revenues earned for the contest or exhibition, for the purpose of determining the fees to bc paid to the commission by that person. Existing law establishes a fee of 5% of gate admission revenues plus 5% of broadcasting revenues to be paid to the commission, except that until January 1, 2006, the maximum gate fee for any one boxing contest may not exceed $100,000. The fees are deposited into the General Fund.

This bill would require the fee revenues to be deposited in the Athletic Commission Fund, which would be created by the bill, rather than in the General Fund.

(2) The Alcoholic Beverage Control Act contains various provisions regulating the application for, the issuance of, and the suspension of alcoholic beverage licenses by the Department of Alcoholic Beverage Control. Existing law authorizes an alcoholic beverage licensee whose license has been suspended for 15 days or less for selling or furnishing alcoholic beverages to a minor to petition the Department of Alcoholic Beverage Control for permission to make an offer in compromise, before the operative date of the suspension of the alcoholic beverage license and to pay an amount in lieu of serving the suspension.

This bill would generally prohibit a licensee from petitioning the department for an offer in compromise in any case in which the proposed suspension is for a period in excess of 15 days. The bill would authorize an alcoholic beverage licensee to petition the department for an offer in compromise for a 2nd violation of provisions relating to selling or furnish alcoholic beverage to minors that occurs within 36 months of the initial violation without regard to the period of the suspension, and would establish the amount of the offer in compromise for various violations, as specified.

(3) Under existing law, a licensee may not petition the Department of Alcoholic Beverage Control for an offer in compromise for a 2nd or subsequent violation of provisions relating to selling alcoholic beverages to a minor within 36-months of the initial violation.

This bill would instead prohibit a licensee from petitioning the department for an offer in compromise for a 3rd or subsequent violation of these provisions within 36 months of the initial violation.

(3.5) Existing law provides that in an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice, the plaintiff, in addition to the actual damages, may recover damages for the sake of example and by way of punishing the defendant.

This bill would provide, with respect to an action filed after the effective date of the bill that results of a final judgment or settlement that is rendered on or before June 30,2006, and includes punitive damages, that the punitive damages shall be apportioned according to a specified formula. Pursuant to this formula, 25% would be paid to the plaintiff or plaintiffs and 75% of the award would be paid to the Director of the Department of Finance for deposit into the Public Benefit Trust Fund, which would be created by the bill. The fund would be administered by the Department of Finance. Of the amounts deposited into the fund, 25% would be continuously appropriated to pay the plaintiffs attorney, as specified, and the remainder would be available for annual appropriation in the Budget Act, to be used for purposes consistent with the nature of the award, as specified.

The bill would specify the state and local income tax treatment of punitive damages awards. The bill would further specify that the state shall not be a party in interest to, or intervene in, the underlying action, and that the sole right of the state shall be to the proceeds payable to the Public Benefit Trust Fund. The bill would also prohibit informing a jury that a portion of a punitive damages award will be paid to a government fund or that a punitive damages award would result in a windfall to the plaintiff.

(4) Existing law provides that when the Attorney General prevails in a civil action to enforce specified public rights, the court shall award the Attorney General all costs of investigating and prosecuting the actions, including expert witness fees, reasonable attorney's fees, and costs. Existing law provides that these moneys be paid to the Public Rights Law Enforcement Special Fund, administered by the Department of Justice.

This bill would add actions to enforce a variety of other civil laws for which costs may be awarded pursuant to the provisions described above. In these provisions, the bill would include actions to enforce laws related to public nuisances, corporate securities, air resources, forest practices, tobacco sales, and waste management, among others and would be operative, as specified.

(5) The Unclaimed Property Law establishes uniform procedures for, among other things, deposits or accounts that escheat to the state, provides that property received by the state under its provisions does not permanently escheat to the state, and exempts from its provisions, among other things, any instrument issued in a foreign country and any funds held only in a foreign country.

This bill would delete these 2 exemptions.

(6) Provisions of law that became inoperative on July 1, 2003, and that were repealed on January 1, 2004, established the Governor's Scholarship Programs under the administration of the Scholarshare Investment Board. Existing law authorizes the board to continue to administer the scholarship accounts established under the repealed law.

This bill would express the intent of the Legislature to provide explicit authority to the board to continue to administer accounts for, and to make awards to, persons who qualified for awards under the provisions of the Governor's Scholarship Programs as those provisions existed on January 1,2003, and to provide for the management and disbursement of funds previously set aside for the Governor's Scholarship Programs.

The bill would authorize the board to manage and disburse the funds previously set aside for the Governor's Scholarshare Programs. The bill would provide that a person who earned an award under these programs, but who has not claimed the award on or before June 30,2004, may claim the award prior to a specified deadline. The bill would authorize the board to adopt rules and regulations for the implementation of the bill.

The bill would require the board to transfer from the Golden State Scholarshare Trust to the General Fund, not later than 30 days following the enactment of the Budget Act of 2004, the lesser of (a) $50,000,000 or (b) the balance in excess of $5,000,000 resulting from unclaimed existing awards under these programs as of the close of business on the business day preceding the date of transfer. The bill would provide that the amount remaining in the Golden State Scholarshare Trust following this transfer would be available as a reserve for funding claims for these awards. The bill would specify that, if the amount of the claims received by the board exceeds $4,000,000, the board would be required to notify the Controller of any shortfall in the reserve for the payment of claims and the Controller would he required to transfer moneys from the General Fund to the Golden State Scholarshare Trust in an amount equal to the shortfall, thereby making an appropriation.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund

to pay the costs of mandates that do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

Existing law requires a county board of supervisors, prior to adopting a resolution to approve or deny requests to consolidate specified local elections, to obtain from the county elections official a report on the cost-effectiveness of the proposed consolidation.

Existing law requires that specified documents related to a real property claim be recorded with a county recorder.

Existing law requires a county recorder to notify debtors of the recordation of involuntary liens affecting the title of real property.

Existing law requires a county assessor to report quarterly to the State Board of Equalization on specified property purchases or transfers between family members that involve a claim for exclusion from "change of ownership" assessment requirements.

Existing law requires that firefighters be provided with specified personal alarm devices.

Existing law requires various local officials to file and record specified documents as a part of a program that allows senior citizens to defer payment of property taxes.

Existing law requires that any traffic signal controller that is newly installed or upgraded by a local authority shall be of a standard traffic signal communication protocol capable of 2-way communications.

This bill would make these requirements optional, thereby eliminating state-mandated local programs, but would state that the Legislature, in recognition of the state and local interests served by these programs, encourages local agencies and officials to continue taking the actions formerly mandated by these provisions, and states that nothing in this statement of encouragement may be construed to impose any liability on a local agency that does not continue to take a formerly mandated action.

(8) Existing statutory provisions require the Commission on State Mandates to issue parameters and guidelines and the Controller to issue claiming instructions that govern how local agencies and school districts may seek reimbursement for state-mandated local programs.

This bill would require the commission to amend the appropriate parameters and guidelines, and the Controller to revise the appropriate reimbursement claiming instructions to be consistent with the provisions of this bill.

(9) Existing law requires a corporation to file an annual statement containing certain information with the Secretary of State and to pay various filing fees, including a ***$5*** disclosure fee, ½ of which is deposited into the Victims of Corporate Fraud Compensation Fund. The fund is administered by the Secretary of State and the revenue in the fund

is required to be used solely for providing restitution to the victims of a corporate fraud.

This bill would continuously appropriate the money in the Victims of Corporate Fraud Compensation Fund to the Secretary of State for that purpose.

(10) Existing law establishes the Food and Agriculture Fund, a continuously appropriated fund used for specified purposes relating to enforcement of various provisions of law relating to various agriculture programs. The fund is exempt from various other provisions of law requiring the submissions of budgets and the contents thereof by state agencies.

This bill would provide that notwithstanding those provisions, the Department of Food and Agriculture would be required to establish all permanent positions with the Controller's office pursuant to standard state administrative practices, and to report to the chairs of the fiscal committees of the Legislature, no later than January 10, 2005, on the positions established and funded, as specified. The bill would make related changes.

(11) The Disaster Assistance Act authorizes the Director of Emergency Services to allocate funds appropriated for the purposes of the act from various accounts for the costs incurred by local and state agencies. Among the costs that may be funded arc local agency personnel costs, excluding normal hourly wage costs of regularly assigned emergency services and public safety personnel; costs to repair, restore, reconstruct, or replace facilities belonging to local agencies damaged as a result of a disaster; and indirect administrative costs.

This bill would, until January 1, 2006, establish the Disaster Response-Emergency Operations Account within the Special Fund for Economic Uncertainties, and would continuously appropriate the moneys in the account, subject to specified limitations, for allocation by the Director of Finance to state agencies for disaster response operation costs incurred by state agencies as a result of a proclamation of a state of emergency by the Governor.

(12) Existing statutory law requires each state agency to annually review of all proprietary state lands over which it has jurisdiction, with specified exceptions, to determine what, if any, land is in excess of its foreseeable needs and report thereon in writing to the Department of General Services. The department is required to report to the Legislature annually, the land declared excess and request authorization to dispose of the land by sale or otherwise, subject to specified conditions. When the department determines any of the land is needed by any other state agency it may transfer the jurisdiction of this land to the other state agency upon the terms and conditions as it may deem to be for the best

interests of the state. When authority is granted for the sale or other disposition of lands declared excess, and the department has determined that the use of the land is not needed by any other state agency, the Department of General Services is required to sell or otherwise dispose of the land, subject to specified conditions. The department is authorized to sell the land to a public agency that has given written notice to the department of its intent to purchase the land within 60 days after receipt of notice from the department. If the agreement is not executed within an additional 90 days, the department is authorized to offer the land for sale in the normal manner, except that this time limit may be extended under certain conditions. In specified cases the department is authorized to transfer the land to local public agencies for less than fair market value. Proceeds of sales and rentals, and other revenues of real property are required to be deposited in the General Fund.

Executive Order S-10-04, among other things, requires all state agencies, departments, boards, and commissions to review the current and anticipated programmatic need for the state-owned and leased property that they occupy or have under their stewardship, and identify and report any property surplus to their current or future needs.

This bill would provide that these statutory provisions shall be inoperative until July 1,2005. The bill would instead, until July 1,2005, require all state agencies, departments, boards, and commissions, that have not already done so pursuant to Executive Order S-10-04, to review the current and anticipated future programmatic need for the state-owned and leased property that they occupy or have under their stewardship, and identify and report any property surplus to their current or future needs to the Department of General Services. It would require the department to review the properties identified pursuant to these reports to determine whether those properties are surplus to the needs of the state, report the surplus properties to the Legislature, and request authorization from the Legislature to dispose of the properties by sale or otherwise, subject to specified conditions. It would authorize the department to sell or otherwise dispose of property as authorized by the Legislature pursuant to these provisions or by previous legislative action, which has been determined by the department not to be needed by any state agency. It would require the property to be offered to local governmental agencies who notify the department of their interest in the surplus state property within 60 days of receiving notice of the availability of the property, and would require the sale of the property to a local agency to be completed, and title transferred, within 90 days of the date the local governmental agency was notified of the availability of the property. It would specify that if the sale of a surplus state property to a local governmental agency is not completed within the 90 day

timeframe, the department would be required to offer the property for sale to private entities or individuals. It would require the transfers or sale of surplus property to local governmental agencies or private entities or individuals pursuant to this subdivision to be at fair market value, and provide that except as otherwise required by the California Constitution or federal law, the net proceeds of any property disposition, or rental moneys or other revenues, would be deposited in the General Fund as specified.

This bill would appropriate $2,800,000 from the Property Acquisition Law Money Account to the department for the 2004–05 fiscal year, for activities associated with the disposal of surplus state property pursuant to the bill.

(13) Existing law authorizes the Stephen P. Teale Data Center to establish rates and collect payments from state agencies for providing services to those agencies. The methodology for computing costs and billing rates is subject to the approval of the Director of Finance.

This bill would require the data center or its successor entity to, commencing no later than August 1, 2005, and no later than August 1 annually thereafter, submit to the Department of Finance a proposal that reconciles the current fiscal year rates and details any adjustments proposed for budget fiscal year rates to be included in the Governor's Budget.

(14) Existing law ratifies specified tribal-state gaming compacts and establishes in the State Treasury the Indian Gaming Special Distribution Fund for the receipt and deposit of gaming device license fee moneys received from Indian tribes pursuant to the terms of the tribal-state compacts. Existing law additionally creates in the State Treasury the Indian Gaming Revenue Sharing Trust Fund for the receipt and deposit of moneys derived from gaming device license fees paid by compact tribes and authorizes moneys in the Indian Gaming Special Distribution Fund to be used to make payment of shortfalls that occur in the Indian Gaming Revenue Sharing Trust Fund. Under existing law, the California Gambling Control Commission, upon authorizing the final payment for each fiscal year from the Indian Gaming Revenue Sharing Trust Fund, is required to report the amount of the deficiency in payments to that fund to a specified legislative committee.

This bill would instead require the California Gambling Control Commission to provide to the committee an estimate of the amount needed to backfill the Indian Gaming Revenue Sharing Trust Fund on or before the date of the May budget revision for each fiscal year. The bill would additionally prohibit an eligible recipient Indian tribe from receiving an amount from the backfill in excess of $275,000 per eligible quarter and would specify that surplus funds in the Indian Gaming

Revenue Sharing Trust Fund would revert back to the Indian Gaming Special Distribution Fund after the authorization of the final payment of the fiscal year.

(15) Existing law, operative until January 1, 2009, establishes the method of calculating the distribution of appropriations from the Indian Gaming Special Distribution Fund for grants to local government agencies impacted by tribal gaming. Under existing law, the Controller, acting in consultation with the California Gambling Control Commission, is responsible for dividing County Tribal Casino Accounts into Individual Tribal Casino Accounts, from which funds may be allocated for grants to local jurisdictions impacted by tribal gaming. Existing law creates an Indian Gaming Local Community Benefit Committee in each county in which gaming is conducted, and that committee is responsible for selecting grants projects, pursuant to certain grant application policies and procedures, and administered by the county.

Existing law sets forth the percentages of each Individual Tribal Casino Account that are to be allocated to various types of grants, with 20% of each Individual Tribal Casino Account available for discretionary grants to local jurisdictions impacted by tribes that are not paying into the Indian Gaming Special Distribution Fund. Existing law specifies that funds not allocated from an Individual Tribal Casino account by the end of each fiscal year revert back to the Indian Gaming Special Distribution Fund.

This bill would provide that if an eligible county does not have a tribal casino operated by a tribe that does not pay into the Indian Gaming Special Distribution Fund, the moneys available for those discretionary grants would instead be available for distribution to local jurisdictions impacted by tribes paying into that fund, as specified. The bill would also provide that moneys in County Tribal Casino Accounts and Individual Tribal Casino Accounts allocated for the 2003–04 fiscal year are eligible for expenditure through December 31, 2004. The bill would make related changes. By placing additional duties on the counties, this bill would impose a state-mandated local program.

(16) Existing law authorizes the Department of General Services to charge fees for services to state agencies, subject to specified conditions.

Existing law generally requires state agencies to submit to the Department of Finance for approval, a budget setting forth all proposed expenditures and estimated revenues for the ensuing fiscal year.

This bill would require the Department of General Services, commencing no later than August 1, 2005, and no later than August 1 annually thereafter, to submit to the Department of Finance a proposal that reconciles the current fiscal year rates for service fees charged by the

Department of General Services to state agencies, and details any adjustments proposed for budget fiscal year rates to be included in the Governor's Budget.

(17) Existing law provides that 2 employees of the Secretary of State's office shall be appointed by the Governor and are exempt from state civil service.

This bill instead would require the Governor to appoint 4 employees of the Secretary of State's office, who may be nominated by the Secretary of State, and who are exempt from state civil service.

(18) Existing law prescribes duties of the Controller in connection with human resource and payroll systems.

This bill would authorize the Controller to assess certain funds, as specified, in amounts sufficient to pay the costs of a human resource project known as the 21st Century Project.

(19) Existing law establishes the California Victim Compensation and Government Claims Board that provides, pursuant to specified procedures, for compensation to claimants who are victims or derivative victims, as defined, who sustain injury or death as a direct result of a crime.

This bill would require a filing fee by claimants who do not proceed in forma pauperis and authorize the board to assess a surcharge not to exceed 15% of the total approved claim, as specified, to support the expense of administering the government claims program for all claims filed after June 30,2004, or the effective date of this bill. The bill would also require the costs of the California employee's annual charitable campaign fund drive to be created from the agency that receives the contributions and would make other technical changes to these provisions.

(20) Existing law prohibits state agencies, including the University of California, the California State University, and the community colleges, from expending funds appropriated for capital outlay until the Department of Finance and the State Public Works Board have approved preliminary plans for the project to be financed from the appropriation for capital outlay. Existing law specifies that the requirement that preliminary plans be approved by the department and the State Public Works Board, with the exception of approvals for the community colleges, does not apply to the acquisition of land or other real property and amounts needed for equipment. Existing law requires the State Public Works Board to defer all augmentations in excess of 20% of the amount appropriated for each capital outlay or design-build project until the Legislature makes additional funds available.

This bill would clarify that approvals by the State Public Works Board and the Department of Finance for the University of California, as well

as for community colleges, apply only to the allocation of state capital outlay funds appropriated by the Legislature, including land acquisition and equipment funds. The bill would expressly state that the State Public Works Board may augment a major project in an amount of up to 20% of the total of the capital outlay appropriations for the project and increase the financing authorized under existing law to include a reasonable construction reserve within the construction fund for any capital outlay project without augmenting the project. The bill would authorize the State Public Works Board to use this amount to augment the project, when and if necessary, after the lease revenue bonds are sold, and upon completion of the project any amount remaining in the construction reserve funds would be used to offset rental payments.

(21) Existing law prohibits spending more than $2,000 of appropriated funds for any single unit of equipment until the Department of Finance has given prior approval for the purchase.

This bill, among other things, would require the Department of Finance to approve the use of funds from a capital outlay appropriation for the purchase of any significant unit of equipment.

(22) Existing law requires the Department of General Services to perform various functions and duties with respect to state property.

Existing law authorizes the Department of General Services, when authorized by the Legislature to use the design-build procurement process for a specific project, to contract and procure state office facilities, other buildings, structures, and related facilities.

This bill would conform the statutory authority of the State Public Works Board with regard to augmenting a design-build project in an amount of up to 20% of the total of the capital outlay appropriations for the project, including a reasonable construction reserve within the construction fund for a design-build project, and authorizing the use of this reserve, to the statutory authority of the State Public Works Board with respect to capital outlay projects.

The bill would require that any augmentation in excess of 10% of the amounts appropriated for each design-build project, in addition to other capital outlay projects, be reported to the Chairperson of the Joint Legislative Budget Committee or his or her designee within a prescribed time period. This bill would revise the definitions of terms used in these design-build project provisions.

(23) Existing law would repeal provisions authorizing state contracting out of printing services on January 1, 2005.

This bill would extend those provisions indefinitely.

(24) Existing law authorizes the Department of Finance to authorize the creation of deficiencies in any appropriation in the case of actual necessity and if the department complies with certain notification

procedures to the Legislature. Existing law also specifies a procedure for the approval of emergency expenditures, as defined.

This bill would repeal those provisions and make conforming changes.

(25) Existing law requires, on August 1 of each year, the Director of Finance to report in writing to the Chairperson of the Joint Legislative Budget Committee the balances of outstanding loans from one state fund or account to any other state fund or account to address specified budgetary shortfalls. Existing law requires, on February 1 of each year, the director to provide an updated report to the chairperson of the loan balances.

This bill would require the Director of Finance to provide a report on General Fund obligations to the Chairperson of the Joint Legislative Budget Committee and to the chairpersons of the fiscal committees of the Assembly and the Senate, as specified.

(26) Existing law establishes the Litigation Deposit Fund in the State Treasury, consisting of all money received as litigation deposits where the state is a party to the litigation, subject to specified conditions. The fund is under the control of the Department of Justice, which is required to maintain accounting records pertaining to the fund. Any residue remaining in a deposit account after satisfaction of all court-directed claims for that account is required to be transferred to the General Fund.

This bill would additionally require the department to prepare and submit to the chairpersons of specified legislative committees quarterly reports concerning the activity of the fund, to contain specified information. It would require the department to notify the Department of Finance no later than 15 days after a transfer from the fund. It would also require that the residue remaining in a deposit account after satisfaction of all court-directed claims, or payment of departmental expenditures, be transferred to the General Fund no later than July 1 of each fiscal year.

(27) Existing law authorizes a county to impose, among other fees with respect to criminal justice services, a booking fee upon other local agencies and colleges and universities for county costs incurred in processing or booking persons arrested by employees of those entities and brought to county facilities for booking and detention. Existing law continuously appropriates up to $50,000,000 annually from the General Fund to the Controller commencing with the 1999–2000 fiscal year for allocation to cities and qualified special districts for actual booking and processing costs paid to the counties.

This bill would limit the booking fees that may be imposed in the 2004–05 and 2005–06 fiscal years, as specified, and repeal that continuous appropriation for the 2005–06 and subsequent fiscal years.

(28) Under existing law, the California Infrastructure and Economic Development Bank is established in the Business, Transportation and Housing Agency. The board of directors of the bank consists of the Director of Finance, the Treasurer, and the Secretary of Business, Transportation and Housing, or their designees.

This bill would include the Secretary of State and Consumer Services and an appointee of the Governor on the board of directors of the bank, and would require *3* members to constitute a quorum and to take action.

(28.5) Existing law suspends an appropriation from the General Fund, and allocation to county sheriff's departments, of funds for enhanced law enforcement for the 2004–05 fiscal year.

This bill would delete that suspension, thereby making an appropriation.

(29) Existing law prescribes requirements for matters to be included in a city or county general plan housing element, including an analysis of the locality's share of the required housing need, an analysis of opportunities for residential energy conservation, and an analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter.

This bill would provide for that energy conservation analysis to be at the option of local government. The bill would require the Department of Housing and Community Development to adopt regulations relative to the special housing needs analysis and would provide that any actions taken by local government beyond those regulations are optional. The bill would specify that a local government may, but is not required to, conduct a review or appeal regarding the allocation of data pertaining to its share of the regional housing need.

The bill would authorize a local government or council of governments to charge a fee to cover costs related to the distribution of regional housing needs.

The bill would require the Commission on State Mandates to review specified decisions of the former State Board of Control to determine whether the enactment of requirements relative to determining the regional housing needs is a reimbursable state mandate.

(30) Existing law provides a procedure for the formation and creation of new counties from portions of one or more existing counties. As part of that procedure the Governor creates a county formation review commission to review the proposed county creation. The commission may borrow money to meet its expenses or may request the Controller to make a loan of not to exceed $100,000 from the County Formation Revolving Fund to be repaid within one year of the date on which the issue of county formation was voted on by the people. Existing law

transfers money from the General Fund to that revolving fund, as specified.

This bill would authorize a commission to request a loan of up to $400,000 from the Controller upon appropriation from the General Fund. The bill would eliminate the County Formation Revolving Fund and would require loan repayments to be deposited in the General Fund. The bill would provide that if loans are not repaid the Controller may reduce moneys allocated to the county pursuant to specified subventions provided for in existing law in an amount equal to the amount of the loan that is owed to the state.

(31) Existing law authorizes a county to impose, among other fees with respect to criminal justice services, a booking fee upon local agencies and colleges and universities for county costs incurred in processing or booking persons arrested by employees of those entities and brought to county facilities for booking or detention with specified exceptions. Existing law continuously appropriates up to $50,000,000 annually from the General Fund to the Controller for allocation to cities and qualifying special districts for reimbursement for actual booking and processing costs paid to counties.

This bill would repeal the provision providing for this continuous appropriation.

(32) Existing law establishes a fee of $15 a day for each day's attendance as a juror after the first day. The Department of Personnel Administration, by regulation, provides regular compensation to a state employee who serves as a juror, if that employee remits his or her fee for jury duty to the state.

This bill would prohibit payment of that $15 fee to a juror who is employed by a federal, state, or local government entity, as specified, and who continues to receive regular compensation and benefits while performing jury service.

(33) Existing law defines county costs for purposes of provisions authorizing certain counties to apply to the Controller for the reimbursement of excessive county costs incurred as a result of a homicide trial, as specified.

This bill would specify that county costs, for those purposes, do not include costs paid for by the superior court or for which the superior court is responsible.

(34) Existing law requires the Judicial Council to adopt policies and procedures governing budgeting in, and management of, the trial courts, and specifies the duties of the Administrative Office of the Courts in that regard.

On and after December 1, 2004, this bill would require the Judicial Council and the Administrative Office of the Courts to annually report

to specified legislative budget committees with regard to the implementation of the California Case Management System and Court Accounting and Reporting System, as specified. Upon implementation of those systems, the bill would require the Administrative Office of the Courts to provide postimplementation reports to those committees.

(35) Existing law establishes a $10 or $20 filing fee surcharge to be added to the total filing fee in civil cases, as specified, that are filed between January 1, 2004, and June 30, 2004, inclusive.

This bill would extend those filing fee surcharges until June 30, 2005, inclusive. However, the bill would make the filing fee surcharge provisions inoperative on July 1, 2005, or upon the enactment of a uniform filing fee, whichever is earlier.

(36) Existing law authorizes the use of electronic recording devices in specified court proceedings under certain circumstances.

This bill would prohibit a court from expending funds for electronic recording technology or equipment to make an unofficial record of an action or proceeding or to use that technology or equipment to make the official record of an action or proceeding in circumstances that are not authorized, as specified. The bill would also require each superior court to report to the Judicial Council on or before October 1, 2004, and semiannually thereafter, and the Judicial Council to report to the Legislature on or before December 1,2004, and semiannually thereafter, regarding all purchases and leases of electronic recording equipment that will be used to record superior court proceedings.

(37) The Trial Court Employment Protection and Governance Act and the Trial Court Interpreter Employment and Labor Relations Act prescribe rights and procedures with respect to relations between trial courts and their employees. Specifically, existing law authorizes a trial court and the regional court interpreter employment relations committee to adopt reasonable rules and regulations for the administration of employer-employee relations under the respective acts. Existing law also authorizes trial courts, trial court employees, and employee organizations, as defined, to petition the superior court, pursuant to procedures and rules adopted by each trial court and the Judicial Council or by the committee, if there has been a violation of the respective acts or to enforce written agreements between the parties.

This bill would provide that any violation of the acts or of any of the rules or regulations shall be processed as an unfair practice charge by the Public Employment Relations Board, as specified. The bill would authorize a party aggrieved by a decision of the board to petition the district court of appeal for relief and prescribe other procedures applicable to the enforcement of the board's decisions or orders.

The bill would also provide that any agreement between the parties that contains an arbitration provision shall be enforced under provisions of existing law relating to enforcement of arbitration agreements and would require the Judicial Council to adopt rules of court to, among other things, provide for the establishment of a panel of court of appeal justices to hear those matters. The bill would make related technical changes and legislative findings and declarations.

(38) Existing law requires the Legislature to make an annual appropriation to the Judicial Council for the general operations of the trial courts based on the request of the Judicial Council.

This bill would provide that the Judicial Council's annual budget request shall be submitted to the Governor and the Legislature, and that it shall meet specified criteria, include a base funding adjustment for operating costs, as specified, and separately identify and justify other costs and adjustments, as specified.

(39) Existing law authorizes cities and counties to be reimbursed for specified costs incurred by them in connection with court proceedings involving a prisoner of a state prison or a person confined to a Department of the Youth Authority correctional institution.

This bill would authorize superior courts to be reimbursed by the Administrative Office of the Courts for specified costs incurred by the courts in connection with those proceedings.

(40) Existing law names various state buildings in honor of former public officials, as specified.

This bill would name a state building in the City of Fresno for the California Court of Appeal, Fifth Appellate District, as the "George N. Zenovich Court of Appeal Building."

(41) Existing law prescribes duties of the State Fire Marshal relating to fire protection.

This bill would authorize the State Fire Marshal to charge state agencies for the cost of fire and life safety building inspections, and require the Controller to transfer those moneys to the appropriation for support of the office of the State Fire Marshal.

(42) Existing law allocates $4,100,000 of bond proceeds under the Housing and Emergency Shelter Trust Fund Act of 2002 to the Department of Housing and Community Development for migrant worker projects.

This bill would increase that allocation to $5,500,000.

(43) Existing law authorizes the Department of Housing and Community Development to increase rents for a migrant farm labor center assisted by the Office of Migrant Services above those charged at other such centers under specified circumstances.

This bill would prohibit a rent increase above 30% of the average annualized household incomes of residents of any such facility without legislative authorization.

(44) Existing law, until January 1,2007, regulates the industry of car washing and polishing by providing specific recordkeeping requirements that employers of car washers must implement with regard to car washer wages, hours, and working conditions. Existing law also requires employers of car washers to register with the Labor Commissioner and pay a registration fee. Employers that fail to register are subject to a civil fine. These fines and registration fees are deposited in the Car Wash Worker Restitution Fund and the Car Wash Worker Fund for disbursement by the commissioner, upon appropriation by the Legislature.

This bill would clarify where these fines and registration fees are to be deposited.

(45) Under existing law, the Department of Corrections and the Department of the Youth Authority are generally required to provide health care to inmates and wards under their care.

This bill would allow these departments to contract with providers of emergency health care services. It would require hospitals that do not contract with the departments to provide these services on the same basis as they are required to provide them pursuant to specified provisions of federal law. The bill would require a provider of ambulance or any other emergency or nonemergency response service that does not contract with the departments to be reimbursed at the rate established by Medicare. The bill would prohibit the departments from reimbursing a hospital or provider of emergency or nonemergency response services that the departments have not contracted with at a rate that exceeds the hospital's reasonable and allowable costs, as defined.

(47) The State Contract Act governs contracting between state agencies and private contractors, and sets forth requirements for the procurement of materials, supplies, equipment, and services by state agencies. Existing law sets out the various responsibilities of state agencies in overseeing and implementing state contracting procedures and policies. Existing law also requires the Department of Corrections to require, among the general conditions under which bids will be received, that any person making a bid or offer to perform a contract include specified information in his or her bid or offer.

This bill would require the Department of Corrections, where feasible, to enter into 2 or more procurement contracts for the purchase and development of the Business Information System (BIS) Project. The bill would require that the BIS project be developed to allow integration with other relevant statewide financial and personnel systems.

(48) The existing California Alternative Energy and Advanced Transportation Financing Authority Act authorizes the California Alternative Energy and Advanced Transportation Financing Authority, among other things, to lend fmancial assistance to a participating party, as defined, for a project, as defined. The act authorizes the authority to incur indebtedness in an amount that does not exceed $350,000,000 of total debt.

This bill would increase the maximum amount of authorized indebtedness to $1,000,000,000 of total debt outstanding, and define "total debt outstanding."

(49) The Rosenthal-Naylor Act of 1984, establishes the Energy Technologies Research, Development, and Demonstration Account (account) that is administered by the State Energy Resources Conservation and Development Commission (commission) to provide loans to specified entities for purposes generally relating to energy research, conservation, and development. Existing law repeals this act on January 1, 2005. Existing law also provides for the repeal of the Energy Research, Development, Demonstration, and Commercialization Act of 1993, on January 1, 2005, which provides specified procedures for the commission to enter into certain royalty agreements.

Existing law requires the commission to establish a small business energy assistance low-interest revolving loan program to fund the purchase of equipment for alternative technology energy projects for California's small businesses. Existing law requires the loan repayments, specified interest, and royalties to be deposited in the account.

Existing law requires all funds from loan repayments and interest that become due for loans made by the commission pursuant to an agriculture energy assistance program be deposited in the account.

This bill would continue in existence, in the General Fund, for specified purposes, the Energy Technologies Research, Development, and Demonstration Account.

The bill would also require the interest rate for small business energy assistance loans to be based on surveys of existing fmancial markets and at rates not lower than the Pooled Money Investment Account, and would delete references to the use of royalty agreements for these loans.

(50) Existing law establishes the California Teleconnect Fund Administrative Committee to advise the Public Utilities Commission regarding the development, implementation, and administration of a program to advance universal service by providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community organizations, consistent with an uncodified statute requiring the

commission to open and conclude a proceeding relative to the implementation of universal service in telecommunications. Existing law establishes the California Teleconnect Fund Administrative Committee Fund in the State Treasury and provides that moneys in the fund, collected by telephone corporations in utility rates authorized by the commission and deposited into the fund, may only be expended for the purposes authorized, upon appropriation in the annual Budget Act. Existing law requires the commission to develop, implement, and administer a program to advance universal service by providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community organizations.

Existing law declares the policies for telecommunications for California, including the policy to assist in bridging the "digital divide" by encouraging expanded access to state-of-the-art technologies for rural, inner-city, low-income, and disabled Californians.

This bill would require, for all customers eligible to receive discounts for telecommunications services under the federal Universal Service E-rate program (E-rate discounts) that also apply for discounts on telecommunications service provided through the California Teleconnect Fund program (teleconnect discounts), that the teleconnect discount be applied after applying the E-rate discount. The bill would require the commission to require, as a condition of participation in the California Teleconnect Fund program, that customers eligible for the E-rate discount provide the commission with information necessary for the commission to determine the percentage of the E-rate discount to which the customer would be entitled. The bill would require that the commission, in establishing discounts under the California Teleconnect Fund program, give priority to bridging the digital divide by encouraging expanded access to state-of-the-art technologies for rural, inner-city, low-income, and disabled Californians.

(51) Existing law requires the Department of Insurance to establish a program for residential grants and loans to help pay for the retrofitting of high-risk residential dwellings owned or occupied by low- and moderate-income households, in order to minimize the risk of earthquake damage to those dwellings and thereby reduce the costs of residential earthquake insurance. Existing law appropriates a specified amount from the California Residential Earthquake Recovery Fund to the department for the purposes of this program. Existing law limits the department to using no more than $290,000 per fiscal year to administer the program. Under existing law, the funds are available until July 1, 2007, at which time the program ceases to be operative.

This bill would eliminate the provisions of law establishing this program. It would provide that money appropriated for this program

shall be available for expenditure until June 30, 2004, and that on and after that date, the program shall no longer be operative.

These provisions would become operative on July 1, 2004, or the date of enactment of the bill, whichever is later.

(52) The Economic Recovery Bond Act approved by the voters at the March 2, 2004, statewide primary election, authorizes the issuance of bonds the proceeds of which would be deposited into the Economic Recovery Fund and transferred, subject to certain criteria, to the General Fund to fund the accumulated state budget deficit, as defined.

Existing law authorizes the loan of funds from other funds, including the Special Fund for Economic Uncertainties in the General Fund, to the General Fund for the payment of General Fund deficits, according to specified criteria.

This bill would establish the Deficit Recovery Fund in the State Treasury. The bill would appropriate certain proceeds of the bonds issued pursuant to the Economic Recovery Bond Act that are deposited in the General Fund, from the General Fund for transfer by the Controller for the 2003–04 fiscal year to the Deficit Recovery Fund, upon approval by the Director of Finance. It would require the Director of Finance to use the moneys transferred to the Deficit Recovery Fund to reimburse General Fund expenditures for the 2003–04 and 2004–05 fiscal years, and would specify that moneys in the fund may be borrowed for General Fund cashflow purposes as authorized by existing law.

(53) This bill would make various technical, nonsubstantive changes.

(54) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(55) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 352 of the Business and Professions Code is amended to read:

352. (a) Subject to subdivision (b), the department shall commence activities under this article no later than January 1, 2002.

(b) The provisions of this article shall only be operative for those years in which there is an appropriation from the General Fund in the Budget Act to fund the activities required by this article.

(c) Funding sources other than the General Fund may be used to support this activity.

SEC. 3. Section 18800 of the Business and Professions Code is amended to read:

18800. As of July 1, 2004, all moneys received by the commission under this chapter shall be accounted for and reported by detailed statements furnished by the commission to the Controller at least once a month. At the same time, these moneys, other than those that have been received by the commission pursuant to Section 18882, shall be remitted to the Treasurer and shall be deposited in the Athletic Commission Fund, which is hereby created.

SEC. 7. Section 23095 of the Business and Professions Code is amended to read:

23095. (a) Whenever a decision of the department suspending a license becomes final, whether by failure of the licensee to appeal the decision or by exhaustion of all appeals and judicial review, the licensee may, before the operative date of the suspension, petition the department for permission to make an offer in compromise, to be paid into the Alcohol Beverage Control Fund, consisting of a sum of money in lieu of serving the suspension.

(b) No licensee may petition the department for an offer in compromise in any case in which the proposed suspension is for a period in excess of 15 days.

(c) Upon the receipt of the petition, the department may stay the proposed suspension and cause any investigation to be made which it deems desirable and may grant the petition if it is satisfied that the following conditions are met:

(1) The public welfare and morals would not be impaired by permitting the licensee to operate during the period set for suspension and the payment of the sum of money will achieve the desired disciplinary purposes.

(2) The books and records of the licensee are kept in such a manner that the loss of sales of alcoholic beverages that the licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy therefrom.

(d) The offer in compromise for retail licensees shall be the equivalent of 50 percent of the estimated gross sales of alcoholic beverages for each day of a proposed suspension, subject to the following limits:

(1) The offer in compromise may not be less than seven hundred fifty dollars ($750) nor more than three thousand dollars ($3,000).

(2) If the petitioning retailer has had any other accusation filed against him or her by the department during the three years prior to the date of the petition that has resulted in a final decision to suspend or revoke the retail license concerned, the offer in compromise may be not less than one thousand five hundred dollars ($1,500) nor more than six thousand dollars ($6,000).

(e) Notwithstanding subdivision (b), a licensee may petition the department for an offer in compromise for a second violation of Section 25658 that occurs within 36 months of the initial violation without regard to the period of suspension. In these cases, the offer in compromise shall be the equivalent of 50 percent of the estimated gross sales of alcoholic beverages for each day of the proposed suspension, and the offer in compromise may be not less than two thousand five hundred dollars ($2,500) nor more than twenty thousand dollars ($20,000).

(f) (1) The offer in compromise for nonretail licensees shall be the equivalent of 50 percent of the estimated gross sales of alcoholic beverages for each day of the proposed suspension, and the offer in compromise may not be less than seven hundred fifty dollars ($750) and may not exceed ten thousand dollars ($10,000) unless the nonretail licensee has violated Section 25500,25502,25503, or 25600 by giving to any licensee illegal inducements, secret rebates, or free goods amounting to more than ten thousand dollars ($10,000) in value, in which case the offer in compromise shall be equal to the value of the illegal inducements, secret rebates, or free goods given.

(2) Notwithstanding paragraph (1), any nonretail licensee who pays an offer in compromise based upon a violation in the exercise of any retail privileges of that license shall have the offer in compromise computed on estimated retail gross sales only pursuant to subdivision (d).

(3) All moneys collected as a result of penalties imposed under this subdivision shall be deposited directly in the General Fund in the State Treasury, rather than the Alcohol Beverage Control Fund as provided for in Section 25761.

SEC. 8. Section 25658.1 of the Business and Professions Code is amended to read:

25658.1. (a) Notwithstanding any other provision of this division, no licensee may petition the department for an offer in compromise pursuant to Section 23095 for a third or any subsequent violation of Section 25658 that occurs within 36 months of the initial violation.

(b) Notwithstanding Section 24200, the department may revoke a license for a third violation of Section 25658 that occurs within any 36-month period. This provision shall not be construed to limit the department's authority and discretion to revoke a license prior to a third violation when the circumstances warrant that penalty.

(c) For purposes of this section, no violation may be considered for purposes of determination of the penalty until it has become final.

SEC. 8.5. Section 3294.5 is added to the Civil Code, to read:

3294.5. (a) The Legislature finds and declares that extraordinary and dire budgetary needs have forced the enactment of this extraordinary measure to allocate temporarily for the state's Public Benefit Trust Fund a substantial portion of any punitive damages paid from a judgment during the limited time period specified in the statute. The Legislature further finds and declares that this uniquely extraordinary legislative action shall not be construed or interpreted in any way to establish any policy, precedent, presumption, or inference in any case or in any other setting, including future legislatures, regarding the award of punitive damages, its allocation, or the payment of attorney's fees arising in connection therewith.

(b) Punitive damages awarded pursuant to a final judgment shall be paid, as follows:

(1) Seventy-five percent shall be paid to the Public Benefit Trust Fund, which is hereby created in the State Treasury, to be administered by the Department of Finance. Amounts deposited into the Public Benefit Trust Fund shall be available for annual appropriation in the Budget Act and shall be used for purposes consisted with the nature of the award, but in no case shall be used to fund the courts or judicial programs. Amounts deposited in the Public Benefit Trust Fund shall also be available for the purposes specified in subdivision (d).

(2) Twenty-five percent to the plaintiff or plaintiffs.

(c) Upon a final judgment that includes punitive damages, after payment of costs if any, to the plaintiff, the judgment debtor shall do all of the following:

(1) Pay the Public Benefit Trust Fund's proportional share of the punitive damages to the Director of the Department of Finance for deposit in the Public Benefit Trust Fund.

(2) Pay to the plaintiffs attorney, the plaintiffs proportional share of punitive damages.

(3) Notify the plaintiffs attorney of the amount of punitive damages paid to the Public Benefit Trust Fund.

(d) Upon deposit in the Public Benefit Trust Fund of proceeds from a final judgment punitive damages award, the plaintiffs attorney in the action giving rise to those proceeds shall be entitled to 25 percent of the

proceeds received by the fund from the punitive damages award in that action. Notwithstanding Section 13340 of the Government Code, the plaintiffs attorney's share of the proceeds shall be continuously appropriated to pay those attorney's fees, provided that any claim for payment by the plaintiff's attorney shall be paid by the fund on July 1 of the next fiscal year.

(e) The state shall not be a party in interest to, and shall not intervene in, any action in which its sole interest is the potential recovery of a portion of a punitive damages award under this section. The state shall not file any amicus curiae brief regarding the propriety of, or the amount of, any punitive damages award in any action in which its sole interest is the potential recovery of a portion of a punitive damages award under this section. The state's sole right to the proceeds of a punitive damages award is as provided in this section.

(f) Notwithstanding any other provision of law, any attorney's fees paid to an attorney from the plaintiff's share of the award shall be deemed to be the income of the attorney and not income to the plaintiff for state and local taxation purposes.

(g) A jury shall not be informed that any portion of a punitive damages award will be paid to a government fund, and no argument or inference shall be made to a jury that a punitive damages award would result in a windfall to the plaintiff or plaintiffs. However, nothing in this section shall be construed to affect a punitive damages award if a juror or jurors had independent knowledge that a portion of a punitive damages award will be paid to a government fund.

(h) This section shall only apply to actions filed after the effective date of this section and finally adjudicated, including the resolution of all mandatory or discretionary appeals, the resolution of any motion for attorney's fees on appeal and any appeals therefrom, and the issue of final remittitur, prior to the date this section ceases to be operative.

(i) This section shall remain in effect until July 1,2006, and as of that date is repealed, unless a later enacted statute extends or deletes that date.

SEC. 9. Section 215 of the Code of Civil Procedure is amended to read:

215. (a) Except as provided in subdivision (b), on and after July 1, 2000, the fee for jurors in the superior court, in civil and criminal cases, is fifteen dollars ($15) a day for each day's attendance as a juror after the first day.

(b) A juror who is employed by a federal, state, or local government entity, or by any other public entity as defined in Section 481.200, and who receives regular compensation and benefits while performing jury service, may not be paid the fee described in subdivision (a).

(c) All jurors in the superior court, in civil and criminal cases, shall be reimbursed for mileage at the rate of thirty-four cents ($0.34) per mile for each mile actually traveled in attending court as a juror after the first day, in going only.

SEC. 10. Section 405.20 of the Code of Civil Procedure is amended to read:

405.20. **A** party to an action who asserts a real property claim may record a notice of pendency of action in which that real property claim is alleged. The notice may be recorded in the office of the recorder of each county in which all or part of the real property is situated. The notice shall contain the names of all parties to the action and a description of the property affected by the action.

SEC. 11. Section 405.22 of the Code of Civil Procedure is amended to read:

405.22. Except in actions subject to Section 405.6, the claimant shall, prior to recordation of the notice, cause a copy of the notice to be mailed, by registered or certified mail, return receipt requested, to all known addresses of the parties to whom the real property claim is adverse and to all owners of record of the real property affected by the real property claim as shown by the latest county assessment roll. If there is no known address for service on an adverse party or owner, then **as** to that party or owner a declaration under penalty of perjury to that effect may be recorded instead of the proof of service required above, and the service on that party or owner shall not be required. Immediately following recordation, a copy of the notice shall also be filed with the court in which the action is pending. Service shall also be made immediately and in the same manner upon each adverse party later joined in the action.

SEC. 12. Section 1021.8 of the Code of Civil Procedure is amended to read:

1021.8. (a) Whenever the Attorney General prevails in a civil action to enforce Section 17537.3, 22445, 22446.5, 22958, 22962, or 22963 of the Business and Professions Code, Section 52, 52.1, 55.1, or 3494 of the Civil Code, the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code or the California Commodity Law of 1990 (Division 4.5 (commencing with Section 29500) of Title 4 of the Corporations Code), Section 1615, 2014, or 5650.1 of the Fish and Game Code, Section 4458, 12606, 12607, 12598, 12989.3, 16147, 66640, 66641, or 66641.7 of the Government Code, Section 13009, 13009.1, 19958.5, 25299, 39674, 41513, 42402, 42402.1, 42402.2, 42402.3, 42402.4, 43016, 43017, 43154, 104557, or 118950 of the Health and Safety Code, Section 308.1 or 308.3 of the Penal Code, Section 2774.1, 4601.1, 4603, 4605, 30820,

30821.6, or 30822 of the Public Resources Code, Section 30101.7 of the Revenue and Taxation Code, or Section 275,1052,1845,13261,13262, 13264,13265,13268,13304,13331,13350,13385,42847, or 48023 of the Water Code, the court shall award to the Attorney General all costs of investigating and prosecuting the action, including expert fees, reasonable attorney's fees, and costs. Awards under this section shall be paid to the Public Rights Law Enforcement Special Fund established by Section 12530 of the Government Code.

(b) This section applies to any action pending on the effective date of this section and to any actions filed thereafter.

(c) The amendments made to this section by the act adding this subdivision shall apply to any action pending on the effective date of these amendments and to any actions filed thereafter.

SEC. 13. Section 1502 of the Code of Civil Procedure is amended to read:

1502. (a) This chapter does not apply to either of the following:

(1) Any property in the official custody of a municipal utility district.

(2) Any property in the official custody of a local agency if such property may be transferred to the general fund of such agency under the provisions of Sections 50050-50053 of the Government Code.

(b) None of the provisions of this chapter applies to any type of property received by the state under the provisions of Chapter 1 (commencing with Section 1300) to Chapter 6 (commencing with Section 1440), inclusive, of this title.

SEC. 14. Section 1502.5 of the Corporations Code is amended to read:

1502.5. The Victims of Corporate Fraud Compensation Fund is hereby established in the State Treasury. The fund shall be administered by the Secretary of State who shall adopt regulations regarding the administration of the fund and the eligibility of victims to receive compensation from the fund. The money in the fund shall be used for the sole purpose of providing restitution to the victims of a corporate fraud. Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated to the Secretary of State for the purposes authorized by this section.

SEC. 15. Article 20.5 (commencing with Section 69999.6) is added to Chapter 2 of Part 42 of the Education Code, to read:

Article 20.5. Management and Disbursement of Funds Previously Set Aside for Repealed Governor's Scholarship Programs

69999.6. (a) In enacting this article, it is the intent of the Legislature to accomplish both of the following:

(1) Provide explicit authority to the board to continue to administer accounts for, and make awards to, persons who qualified for awards under the provisions of the Governor's Scholarship Programs as those provisions existed on January 1, 2003, prior to the repeal of former Article 20 (commencing with Section 69995).

(2) Provide for the management and disbursement of funds previously set aside for the scholarship programs authorized by former Article 20 (commencing with Section 69995).

(b) The board may manage and disburse the funds previously set aside for the scholarship programs authorized by former Article 20 (commencing with Section 69995).

(c) If a person has earned an award under the Governor's Scholarship Programs on or before January 1,2003, but has not claimed the award on or before June 30,2004, he or she still may claim the award by a date that is five years from the first June 30 that fell after he or she took the qualifying test. *An* award shall not be made by the Scholarshare Investment Board after that date.

(d) The board may adopt rules and regulations for the implementation of this article.

69999.7. (a) Notwithstanding any other provision of law, not later than 30 days after enactment of the Budget Act of 2004, the Scholarshare Investment Board shall transfer from the Golden State Scholarshare Trust to the General Fund the lesser of (1) fifty million dollars ($50,000,000) or (2) the balance resulting from unclaimed awards in the Golden State Scholarshare Trust that exceeds five million dollars ($5,000,000) as of the close of business on the business day preceding the transfer.

(b) The amount remaining in the Golden State Scholarshare Trust after the transfer required by subdivision (a) shall be available as a reserve for funding claims for these awards. If claims for these awards exceed four million dollars ($4,000,000) of the reserve established by this act in the Golden State Scholarshare Trust, the Scholarshare Investment Board shall notify the Controller of the amount of any shortfall of funds for the payment of claims, and the Controller shall transfer **an** amount of money equal to the shortfall from the General Fund to the Golden State Scholarshare Trust.

69999.8. As used in this article:

(a) "Board" means the Scholarshare Investment Board established pursuant to subparagraph (C) of paragraph (2) of subdivision (a) of Section 69984.

(b) "Former Article 20" means former Article 20 (commencing with Section 69995) of Chapter 2 of Part **42** of the Education Code, as it read on January 1,2003.

SEC. 16. Section 10404.5 of the Elections Code is amended to read:

10404.5. (a) **A** resolution of the governing board of a school district or county board of education to establish an election day pursuant to subdivision (b) of Section 1302 shall be adopted and submitted to the board of supervisors not later than 240 days prior to the date of the currently scheduled election of the district or for the members of the county board of education.

(b) The final date for the submission of the resolution by the governing board of a school district or county board of education to the board of supervisors is not subject to waiver.

(c) The board of supervisors shall notify all school districts and the county board of education located in the county of the receipt of the resolution to consolidate and shall request input from each district on the effect of consolidation.

(d) (1) The board of supervisors, within 60 days from the date of submission, shall approve the resolution unless it finds that the ballot style, voting equipment, or computer capacity is such that additional elections or materials cannot be handled. Prior to the adoption of a resolution to either approve or deny a consolidation request, the board or boards of supervisors may obtain from the elections official a report on the cost-effectiveness of the proposed action.

(2) Public notices of the proceedings in which the resolution is to be considered for adoption shall be made pursuant to Section 2515 1 of the Government Code.

(e) Within 30 days after the approval of the resolution by the board of supervisors, the elections official shall notify all registered voters of the districts affected by the consolidation of the approval of the resolution by the board of supervisors. The notice shall be delivered by mail and at the expense of the school district or if applicable, the county board of education.

(f) **An** election day established pursuant to subdivision (b) of Section 1302 shall be prescribed to occur not less than one month, nor more than 12 months, subsequent to the election day prescribed in Section 5000 of the Education Code or pursuant to Section 1007 of the Education Code, as appropriate. **As** used in this subdivision, "12 months" means the period from the election day prescribed in Section 5000 of the Education Code or pursuant to Section 1007 of the Education Code, as appropriate, to the first Tuesday after the first Monday in the 12th month subsequent to that day, inclusive.

(g) In the event that the election day for a school district governing board or county board of education is established pursuant to subdivision (b) of Section 1302, the term of office of all then incumbent

members of that governing board or county board of education shall be extended accordingly.

SEC. 17. Section 10405.7 of the Elections Code is amended to read:

10405.7. (a) The resolution of the community college district governing board to establish an election day pursuant to subdivision (b) of Section 1302 shall be adopted and submitted to the board of supervisors not later than 240 days prior to the date of the currently scheduled election for the governing board members of the community college district.

(b) The final date for the submission of the resolution by the community college district governing board to the board of supervisors is not subject to waiver.

(c) The board of supervisors shall notify all community college districts located in the county of the receipts of the resolution to consolidate and shall request input from each district on the effect of consolidation.

(d) (1) The board of supervisors, within 60 days from the date of submission, shall approve the resolution unless it finds that the ballot style, voting equipment, or computer capacity is such that additional elections or materials cannot be handled. Prior to the adoption of a resolution to either approve or deny a consolidation request, the board or boards of supervisors may each obtain from the elections official a report on the cost-effectiveness of the proposed action.

(2) Public notices of the proceedings in which the resolution is to be considered for adoption shall be made pursuant to Section 25151 of the Government Code.

(e) Within 30 days after the approval of the resolution by the board of supervisors, the elections official shall notify all registered voters of the districts affected by the consolidation of the approval of the resolution by the board of supervisors. The notice shall be delivered by mail and at the expense of the community college district.

(f) An election day established pursuant to subdivision (b) of Section 1302 shall be prescribed to occur not less than one month, nor more than 12 months, subsequent to the election day prescribed in Section 5000. **As** used in this subdivision, "12 months" means the period from the election day prescribed in Section 5000 of the Education Code to the first Tuesday after the first Monday in the 12th month subsequent to that day, inclusive.

(g) **If,** pursuant to subdivision (b) of Section 1302, a district governing board member election is held on the same day as a statewide general election, those district governing board members whose four-year terms of office would have, prior to the adoption of the

resolution, expired prior to that election shall, instead, continue in their offices until successors are elected and qualified.

SEC. 18. Section 221.1 is added to the Food and Agricultural Code, to read:

221.1. (a) Notwithstanding Section 221, the department shall establish all permanent positions with the Controller's office, pursuant to standard state administrative practices.

(b) The department shall report to the chairs of the fiscal committees of the Legislature and to the Legislative Analyst's office on or before January 10, 2005, on the positions established pursuant to subdivision (a) that have been funded by the department's general authority. The report shall include a description of the positions by program, classification, and source of funding, as well as a complete description of the workload for the positions.

SEC. 19. Section 905.2 of the Government Code is amended to read:

905.2. (a) There shall be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of this part all claims for money or damages against the state:

(1) For which no appropriation has been made or for which no fund is available but the settlement of which has been provided for by statute or constitutional provision.

(2) For which the appropriation made or fund designated is exhausted.

(3) For money or damages on express contract, or for an injury for which the state is liable.

(4) For which settlement is not otherwise provided for by statute or constitutional provision.

(b) Claimants shall pay **a** filing fee of twenty-five dollars ($25) for filing a claim described in subdivision (a) with the Victim Compensation and Government Claims Board. This fee shall be deposited into the General Fund and may be appropriated in support of the board as reimbursements to Item 8700-001-0001 of the annual Budget Act.

(1) The fee shall not apply to persons who have applied for and been granted permission to proceed as litigants in forma pauperis in accordance with Section 68511.3 and applicable rules of court governing proceedings in forma pauperis.

(2) Upon approval of the claim by the Victim Compensation and Government Claims Board, the fee shall be reimbursed to the claimant. Reimbursement of the filing fee shall be paid by the state entity against which the approved claim was filed. The reimbursement shall be made at the time the claim is paid by the state entity, or shall be added to the amount appropriated for the claim in an equity claims bill.

(c) The board may assess a surcharge in an amount not to exceed 15 percent of the total approved claim. The board shall not include the refunded filing fee in the surcharge calculation. This surcharge shall be deposited into the General Fund and may be appropriated in support of the board as reimbursements to Item 8700-001-0001 of the annual Budget Act.

(d) The filing fee required by subdivision (a) shall apply to all claims filed after June 30, 2004, or the effective date of this statute. The surcharge authorized by subdivision (c) may be calculated and included in claims paid after June 30, 2004, or the effective date of the statute adding this subdivision.

SEC. 20. Section 910.4 of the Government Code is amended to read:

910.4. The board shall provide forms specifying the information to be contained in claims against the state. The person presenting a claim shall use the form in order that his or her claim is deemed in conformity with Sections 910 and 910.2. **A** claim may be returned to the person if it was not presented using the form, Any claim returned to a person may be resubmitted using the appropriate form.

SEC. 21. Section 910.8 of the Government Code is amended to read:

910.8. If in the opinion of the board or the person designated by it a claim as presented fails to comply substantially with the requirements of Sections 910 and 910.2, or with the requirements of a form provided under Section 910.4 if a claim is presented pursuant thereto, or if the claim is submitted without a filing fee when required pursuant to subdivision (b) of Section 905.2, the board or the person may, at any time within 20 days after the claim is presented, give written notice of its insufficiency, stating with particularity the defects or omissions therein. The notice shall be given in the manner prescribed by Section 915.4. The board may not take action on the claim for a period of 15 days after the notice is given.

SEC. 22. Section 911 of the Government Code is amended to read:

911. Any defense as to the sufficiency of the claim based upon a defect or omission in the claim as presented is waived by failure to give notice of insufficiency with respect to the defect or omission as provided in Section 910.8, except that no notice need be given and no waiver shall result when the claim as presented fails to state either an address to which the person presenting the claim desires notices to be sent or an address of the claimant, or fails to include the filing fee.

SEC. 23. Section 8690.6 is added to the Government Code, to read:

8690.6. (a) The Disaster Response-Emergency Operations Account is hereby established in the Special Fund for Economic Uncertainties. Notwithstanding Section 13340, moneys in the account are continuously appropriated, subject to the limitations specified in

subdivisions (c) and (d), without regard to fiscal years, for allocation by the Director of Finance to state agencies for disaster response operation costs incurred by state agencies as a result of a proclamation by the Governor of a state of emergency, as defined in subdivision (b) of Section 8558. These allocations may be for activities that occur within 120 days after a proclamation of emergency by the Governor.

(b) It is the intent of the Legislature that the Disaster Response-Emergency Operations Account have an unencumbered balance of one million dollars ($1,000,000) at the beginning of each fiscal year. In the event that this account requires additional moneys to meet claims against the account, the Director of Finance may transfer moneys from the Special Fund for Economic Uncertainties to the account in an amount sufficient to pay the amount of the claims that exceed the unencumbered balance in the account.

(c) Funds shall be allocated from the account subject to the conditions of this section and upon notification by the Director of Finance to the chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees in each house.

(d) Notwithstanding any other provision of law, authorizations for acquisitions, relocations, and environmental mitigations related to activities, as described in subdivision (a), shall be authorized pursuant to this section. However, these funds may only be authorized for needs that are a direct consequence of the proclaimed emergency where failure to undertake the project may interrupt essential state services or jeopardize public health or safety. In addition, any acquisition accomplished under this subdivision shall comply with any otherwise applicable law, except as provided in the first sentence of this subdivision.

(e) No funds allocated under this section shall be used to supplant federal funds otherwise available in the absence of state financial relief.

(f) The amount of financial assistance provided to an individual, business, or governmental entity under this section, or pursuant to any other program of state-funded disaster assistance, shall be deducted from sums received in payment of damage claims asserted against the state, its agents, or employees, for causing or contributing to the effects of the proclaimed disaster.

(g) No public entity administering disaster assistance to individuals shall receive funds under this section unless it administers that assistance pursuant to the following criteria:

(1) All applications, forms, and other written materials presented to persons seeking assistance shall be available in English and in the same language as that used by the major non-English-speaking group within the disaster area.

(2) Bilingual staff who reflect the demographics of the disaster area shall be available to applicants.

(h) This section shall remain in effect only until January 1,2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

SEC. 24. Section 11006 of the Government Code is repealed.

SEC. 25. Section 11011 of the Government Code is amended to read:

11011. (a) On or before December 31st of each year, each state agency shall make a review of all proprietary state lands, other than tax-deeded land, land held for highway purposes, lands under the jurisdiction of the State Lands Commission, land that has escheated to the state or that has been distributed to the state by court decree in estates of deceased persons, and lands under the jurisdiction of the State Coastal Conservancy, over which it has jurisdiction to determine what, if any, land is in excess of its foreseeable needs and report thereon in writing to the Department of General Services. These lands shall include, but not be limited to, the following:

(1) Land not currently being utilized, or currently being underutilized, by the statc agency for any existing or ongoing state program.

(2) Land for which the state agency has not identified any specific utilization relative to future programmatic needs.

(3) Land not identified by the state agency within its master plans for facility development.

(b) Jurisdiction of all land reported as excess shall be transferred to the Department of General Services, when requested by the director thereof, for sale or disposition under this section or as may be otherwise authorized by law.

(c) The Department of General Services shall report to the Legislature annually, the land declared excess and request authorization to dispose of the land by sale or otherwise.

(d) The Department of General Services shall review and consider reports submitted to the Director of General Services pursuant to Section 66907.12 of the Government Code and Section 31104.3 of the Public Resources Code prior to recommending or taking any action on surplus land, and shall also circulate the reports to all agencies that are required to report excess land pursuant to this section. In recommending or determining the disposition of surplus lands, the Director of General Services may give priority to proposals by the state that involve the exchange of surplus lands for lands listed in those reports.

(e) Except as otherwise provided by any other provision of law, whenever any land is reported as excess pursuant to this section, the

Department of General Services shall determine whether or not the use of the land is needed by any other state agency. If the Department of General Services determines that any land is needed by any other state agency it may transfer the jurisdiction of this land to the other state agency upon the terms and conditions as it may deem to be for the best interests of the state.

(f) When authority is granted for the sale or other disposition of lands declared excess, and the Department of General Services has determined that the use of the land is not needed by any other state agency, the Department of General Services shall sell the land or otherwise dispose of the same pursuant to the authorization, upon any terms and conditions and subject to any reservations and exceptions as the Department of General Services may deem to be for the best interests of the state. The Department of General Services shall report to the Legislature annually, with respect to each parcel of land authorized to be sold under this section, giving the following information:

(1) A description or other identification of the property.

(2) The date of authorization.

(3) With regard to each parcel sold after the next preceding report, the date of sale and price received, or the value of the land received in exchange.

(4) The present status of the property, if not sold or otherwise disposed of at the time of the report.

(g) Except as otherwise specified by law, moneys received from any property disposition, including the sale, lease, exchange, or other means, that is received pursuant to this section shall be paid into the General Fund.

For purposes of this section, net proceeds shall be defined as gross proceeds less all costs directly related to the completion of the transaction including, but not limited to, selling costs, transfer fees, commissions, and costs incurred by the Department of General Services.

(h) Any rentals or other revenues received by the department from real properties, the jurisdiction of which has been transferred to the Department of General Services under this section, shall be deposited in the General Fund in the account established by Section 15863. Any expenditures required to maintain, repair, care for, and sell this real property shall be paid from the appropriation made by Section 15863.

(i) Nothing contained in this section shall be construed to prohibit the sale, letting, or other disposition of any state lands pursuant to any law now or hereafter enacted authorizing the sale, letting, or disposition.

(j) This section shall be inoperative for the period commencing with the effective date of the act that added this subdivision, until July 1, 2005.

SEC. 26. Section 11011.1 of the Government Code is amended to read:

11011.1. (a) Land that has been declared surplus by the Legislature, pursuant to Section 11011, and is not needed by any state agency shall be offered to local governmental agencies. Except as authorized in subdivisions (b), (c), (d), (e), and **(k),** or any combination thereof, transfers of surplus land to local governmental agencies pursuant to this section shall be at fair market value. No surplus land shall be sold for less than fair market value, however, to any person or agency, whether public or private, unless the contract for sale provides for the reversion of the land to the state if the stated purpose for which the property is sold is not achieved.

(b) Where the land is to be used for park and recreation purposes and operated for those purposes by local agencies at no expense to the state, the Director of General Services with the approval of the State Public Works Board may, notwithstanding any provision in Section 11011, transfer the land to local governmental agencies at less than the fair market value of the land, if the transfer is in the public interest, under the following conditions:

(1) The local public agency has submitted a general development plan for the property that conforms to the agency's general plan pursuant to Article 5 (commencing with Section 65300) of Chapter *3* of Title 7, and which general development plan has been approved by the Director of Parks and Recreation.

(2) The land shall be developed according to plan within a time period determined by the state but not to exceed 10 years. The deed or other instrument of transfer shall provide that the land shall revert to the state if the land is not developed within the time period so determined by the state.

(3) The deed or other instrument of transfer shall provide that the land would revert to the state if the use changed to a use not consistent with parks and recreation purposes during the period of 25 years following the sale.

(c) Where the land is to be used for open-space purposes, as defined herein, and operated by local agencies at no expense to the state, the Director of General Services with the approval of the State Public Works Board may transfer the land to local governmental agencies at fair market value of the land or at any lesser value of the land under any of the following conditions:

(1) The local public agency has submitted a plan for the use of the property that conforms to the agency's general plan pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Title 7, and which plan has been approved by the Director of Parks and Recreation.

(2) The land shall be used according to plan within a time period determined by the state but not to exceed 10 years.

(3) The deed or other instrument of transfer shall provide that the land would revert to the state if the use changed to a use not consistent with open-space purposes during the period of 25 years following the sale.

(4) For the purpose of this subdivision, "open-space purpose" means the use of land for public recreation, enjoyment of scenic beauty, or conservation or use of natural resources.

(d) Where the land is suitable to be used for the purpose of providing housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, the Director of General Services, with the approval of the State Public Works Board, may offer the land to local agencies within whose jurisdiction the land is located. Provided, however, if the state has held title to the land for seven years or less and the land is not used for the purposes for which it was acquired, and the land is declared surplus land and is not needed by any other state agency pursuant to the provisions of Section 11011, the state, prior to offering the land to local agencies, shall extend to the individual Gom whom the land was acquired an offer to purchase the land at current fair market value. The offer shall extend for 60 days and if not exercised within that period shall be irrevocably terminated. The land may be transferred to local agencies at a reasonable cost that will enable the provision of housing for persons and families of low or moderate income. The cost may be less than fair market value. The Department of Housing and Community Development shall recommend to the Department of General Services a cost that will enable the provision of housing for persons and families of low or moderate income. All transfers of land pursuant to this subdivision shall be subject to the following conditions:

(1) The local agency has made all of the following findings:

(A) There is a need for the housing in the community.

(B) The land is suitable for development of the housing.

(2) The local agency develops a plan for the housing in accordance with criteria established by the Department of Housing and Community Development, which shall include, but not be limited to, criteria respecting the financial condition of the developer, if the housing is to be developed by a private sponsor, and the cost of the project. The plan shall be approved by the Department of Housing and Community Development.

(3) After transfer of the property from the state to the local agency, the property shall be developed as housing for persons and families of low or moderate income. The local agency may lease or sell the property to any nonprofit corporation, housing corporation, limited dividend

housing corporation, or private developer if the local agency determines a private entity is best suited to develop housing for persons and families of low or moderate income. In authorizing the private development, the local agency shall impose reasonable terms and conditions as will further the purposes of this subdivision, which shall include, but not be limited to, continued use of the property for housing for persons and families of low or moderate income for not less than 40 nor more than 55 years. A lessee or purchaser of land pursuant to this subdivision shall agree to limitations on profit in the operation of the property that will benefit the public and assure that the housing provided thereon is within the means of persons and families of low or moderate income. The agreement shall be binding upon successors in interest of the original lessee or purchaser and shall inure to the benefit of, and be enforceable by, the state.

(4) The local agency shall assure that the land will be used for the purpose of providing low- or moderate-income housing and shall not permit the use of the dwelling accommodations of the project for any other purpose for not less than 40 nor more than 55 years, except as provided in this section.

In the event a local agency does not comply with the land use requirements prescribed in this section, as determined by the Department of General Services, the Department of General Services may require that the local agency pay the state the difference between the actual price paid by the local agency for the property and the fair market value of the property, at the time of the department's determination of noncompliance, plus 6 percent interest on that amount for the period of time the land has been held by the local agency.

If the local agency, with the approval of the Department of General Services, and in consultation with the Department of Housing and Community Development, determines that there is no longer a need for low- or moderate-income housing within the jurisdiction of the local agency and another valid public purpose could be achieved by utilizing the land in an alternative manner, the local agency shall not be required to make any payment to the state for the difference between purchase price and fair market value or interest charges for the period of time the land has been held by the local agency.

(5) Failure to comply with the provisions of this section shall not invalidate the transfer, sale, or conveyance of the real property to a bona fide purchaser or encumbrancer for value.

(6) The project shall be commenced within 24 months of the original transfer to the local agency. However, the Department of General Services, in consultation with the Department of Housing and Community Development, may for justifiable cause extend the time for commencement of development for an additional **36** months. The

aggregate time for commencing development shall not exceed 60 months. The deed or other instrument of conveyance shall specify that, if development has not commenced within that time, the land shall revert to the Department of General Services for disposal pursuant to this section or as otherwise authorized by law.

(7) As used in this subdivision, "local agency" means and includes any county, city, city and county, redevelopment agency organized pursuant to Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, or housing authority organized pursuant to Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code, public district or other political subdivision of the state and any instrumentality thereof, which is authorized to engage in or assist in the development or operation of housing for persons and families of low or moderate income and also includes two or more of those agencies acting jointly pursuant to Part 1 (commencing with Section 6500) of Division 7 of this code.

(8) Up to 40 percent of the housing developed on land purchased at below market value pursuant to this subdivision may be housing that is not regulated as to price, rent, or eligibility of occupants only if the purchaser of the land demonstrates that the proceeds from the sale or rental of that housing, in an amount equal to the difference between the fair market value and the actual price paid for the land, is used to reduce prices or rents on other housing units that are made available exclusively to persons and families of low and moderate income.

(e) Where the land is suitable to be used for the purpose of providing housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, and provided no local agency has acquired or is in the process of acquiring the land pursuant to subdivision (d), the Director of General Services, with the approval of the State Public Works Board, may lease or sell the land to a housing sponsor, The land may be sold or leased at a reasonable cost that may be less than fair market value. The Department of Housing and Community Development shall recommend to the Director of General Services a cost that will enable the provision of housing for persons and families of low or moderate income. All transfers of land pursuant to this subdivision shall be subject to all of the following conditions:

(1) The housing sponsor has submitted a plan for the development of that housing pursuant to criteria established by the Department of Housing and Community Development. The criteria shall include, but need not be limited to, standards with respect to the cost of the housing development and the proportion of the housing development to be occupied by persons and families of low and moderate income. Insofar

as is practical, the plan shall provide for a mix of housing for all income groups.

(2) The housing development shall normally be developed or be under development within 24 months from the time of transfer or lease of the land to the housing sponsor. However, the Department of General Services, in consultation with the Department of Housing and Community Development, may, upon finding justifiable cause, extend the time for commencement of development for an additional period of *36* months. The aggregate of all extensions for commencement of development shall not exceed *60* months. The deed or other instrument of conveyance shall specify that if development has not commenced within that time, the land shall revert to the Department of General Services for disposal pursuant to this section or as otherwise authorized by law.

(3) Transfer of title to the land or lease of the land to a housing sponsor shall be conditioned upon continued use of the property as housing for persons and families of low and moderate income for not less than 40 nor more than *55* years. In accordance with regulations that shall be adopted by the Department of Housing and Community Development pursuant to the Administrative Procedure Act, the Director of General Services shall require that any housing sponsor purchasing or leasing land pursuant to this subdivision enter into an agreement that (A) provides for limitations on profit in the operation of that property that benefit the public and which assure that the housing is affordable to persons and families of low and moderate income, and (B) does not permit the use of the property for purposes other than the provision of housing for persons and families of low and moderate income except as provided in this subdivision. Upon recordation of the agreement in the office of county recorder in the county in which the real property subject to the agreement is located, the agreement shall be binding for a period of not less than 40 nor more than *55* years upon successors in interest to the original housing sponsor and shall inure to the benefit of, and be enforceable by, the state.

For the purposes of this subdivision, "housing sponsor" means a nonprofit corporation incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code; a cooperative housing corporation which is a stock cooperative, as defined by Section 11003.2 of the Business and Professions Code; a limited-dividend housing corporation; or a private housing developer who agrees to the conditions set forth in this subdivision.

(4) Up to 40 percent of the housing developed on land purchased at below market value pursuant to this subdivision may be housing which is not regulated as to price, rent, or eligibility of occupants only if the

purchaser of the land demonstrates that the proceeds from the sale or rental of that housing, in an amount equal to the difference between the fair market value and the actual price paid for the land, is used to reduce prices or rents on other housing units which are made available exclusively to persons and families of low and moderate income.

(f) The Department of Housing and Community Development, in consultation with the Department of General Services and the Office of Planning and Research, shall make a report to the Legislature on or before January 1, 1981, with respect to effectiveness of the program and shall recommend any necessary legislative changes to the provisions of subdivision (d).

(g) Where the land is to be used for public purposes other than specifically set forth in this section, is to be operated by the local agency at no expense to the state, and the use and enjoyment of the public purpose contemplated will be of broad public benefit, and not a benefit basically of local interest enjoyed and used primarily by the residents of the area of tax jurisdiction of the local agency, the Director of General Services, with the approval of the State Public Works Board, may transfer the land to local governmental agencies at a sales price not less than 50 percent of fair market value. The transfer shall provide that if the land is not used for the contemplated purpose during the period of 25 years following the sale, the land shall revert to the state. The Director of General Services may provide additional terms and conditions which he or she determines to be in the best interest of the state.

(h) If there is more than one appropriate use and more than one offer for the use of a parcel of surplus land, the Department of General Services, in consultation with the Department of Housing and Community Development, the Department of Parks and Recreation, and the Office of Planning and Research, shall determine the most appropriate use for the parcel and the Department of General Services shall offer the land accordingly.

(i) Land that has been declared surplus by the Legislature, pursuant to Section 11011, is not needed by any state agency, is suitable for development for housing purposes, and is not in the process of being acquired pursuant to other provisions of this section, may upon the request of the Department of Housing and Community Development be retained by the Director of General Services for a period not exceeding five years, during which the Director of General Services shall continue to offer the lands for housing pursuant to subdivision (d).

(j) Transfer of state surplus lands under subdivision (d) shall be at a cost which will enable provision of economically feasible housing for persons and families of low or moderate income.

(k) Where the land is to be used for school purposes, the Director of General Services with the approval of the State Public Works Board and the State Allocation Board may, notwithstanding any provision in Section 11011, transfer the land to a local school district at less than fair market value of the land, if the transfer is in the public interest, under the following conditions:

(1) The land is suitable for use by a school district as a school site, school administration building site, school warehouse site, or other school use approved by the State Department of Education.

(2) The land is used by the school district for those purposes before a nonuse fee is required by Section 39015 of the Education Code or a later time approved by the State Department of Education, with a reversion to the state if not so used within the time prescribed.

(3) The deed or other instrument of transfer shall provide that the land shall revert to the state if the use is changed to a use not consistent with school purposes during the period of 25 years following the sale.

(l) This section shall be inoperative for the period commencing with the effective date of the act that added this subdivision, until July 1, 2005.

SEC. 27. Section 11011.2 of the Government Code is amended to read:

11011.2. (a) Any state agency that owns real property requiring annual maintenance costing in excess of fifty thousand dollars ($50,000), and that declares that property to be surplus, shall provide for its maintenance for a period of one year from the date notification is made to the Department of General Services to request the Legislature to declare the property surplus, or until the property is sold. An agency may notify the Department of General Services to request the Legislature to declare property surplus while the property is still in use.

(b) This section shall be inoperative for the period commencing with the effective date of the act that added this subdivision, until July 1, 2005.

SEC. 28. Section 11011.3 of the Government Code is amended to read:

11011.3. (a) Any public agency desiring to purchase surplus state real property, as set forth in Section 11011.1, shall give written notice to the Department of General Services of its intent to purchase the real property within 60 days after receipt of the Department of General Services' written notification of intent to sell the property.

(b) If the public agency desiring to purchase the property and the Department of General Services are unable to arrive at a mutually acceptable sales price for the property within 180 days from the date of receipt of notice from the public agency, upon request of the public

agency the Director of the Department of General Services shall hire an independent third party appraiser mutually acceptable to the agency and the department to appraise the property. If within 10 days after receipt of the appraisal the public agency and the department are unable to arrive at a mutually acceptable sales price, upon request of the agency final determination of the sales price shall be made by the State Public Works Board. The public agency shall bear all costs of the independent third party appraisal whether or not the agency elects to purchase the property. If the agency does purchase the property, the appraisal costs shall be added to the purchase price of the property. If the public agency does not purchase the property, it shall pay the appraisal costs, and the surplus real property may be disposed of in the normal manner.

(c) After arriving at a mutually agreeable sales price, the Department of General Services and the public agency will be allowed an additional 90 days to execute a sales or exchange agreement to purchase the property. In the event an agreement is not executed by the public agency within the 90-day period, the Department of General Services may offer the property for sale in the normal manner. Should 90 days prove insufficient for the public agency to finance purchase of the property, the Public Works Board for good cause may grant an extension of time to complete the purchase. The 90-day limitation shall be suspended when a bond election is to be held for the purpose of financing the purchase of the property. However, the bond election shall be called and held on the next eligible date and this suspension of the 90-day limitation shall only be extended to the 10th day following the date of the next bond election.

(d) For purposes of this section, written notice shall be deemed given upon proper posting and deposit in the United States mail.

(e) Nothing in this section shall prohibit **the** state from continuing to negotiate with a public agency for the sale of surplus property pursuant to other provisions of this article.

(f) This section shall be inoperative for the period commencing with the effective date of the act that added this subdivision, until July 1, 2005.

SEC. 29. Section 11011.4 of the Government Code is amended to read:

11011.4. (a) Notwithstanding any provision to the contrary in Section 54222 or elsewhere, land may be transferred pursuant to subdivision (d) of Section 11011.1 to a local agency at the cost specified in subdivision (d) of Section 11011.1.

(b) This section shall be inoperative for the period commencing with the effective date of the act that added this subdivision, until July 1, 2005.

SEC. 30. Section 11011.5 of the Government Code is amended to read:

11011.5. (a) When no state or other public entity seeks to obtain title to specific surplus state-owned real property, a state agency authorized to sell that property, except property acquired for state highway purposes, may, with the approval of the Department of General Services, employ a licensed real estate broker for a negotiated commission not to exceed reasonable and customary brokerage commissions applicable to similar privately owned properties in the area in connection with that sale and pay the amount of commission earned by the broker. The commission shall be paid only out of the proceeds of the sale before the proceeds are remitted to the State Treasury. The Director of General Services shall only employ the services of a broker when the director determines that the employment of a broker to sell the property would result in a cost savings to the state. Any state properties sold through the services of a broker shall be reported, along with a comparison of the estimated cost savings obtained through the use of a broker, in the annual surplus property report to the Legislature required pursuant to Section 11011.

(b) This section shall be inoperative for the period commencing with the effective date of the act that added this subdivision, until July 1, 2005.

SEC. 31. Section 11011.6 of the Government Code is amended to read:

11011.6. (a) Notwithstanding any other provision of law, land held by the state and not needed by any state agency, acquired at little or no cost from a local governmental agency or private party, and where no significant amount of state funds have been expended to preserve, improve, restore, or reclaim such lands, and if it will be used by a governmental agency for a public purpose of broad public benefit, and not a benefit basically of local interest enjoyed and used primarily by the residents of the area of tax jurisdiction of the agency, the Director of General Services, with the approval of the State Public Works Board, upon application by the agency or private party, may transfer the land to the governmental agencies at no cost.

(b) This section shall be inoperative for the period corntnencing with the effective date of the act that added this subdivision, until July 1, 2005.

SEC. 32. Section 11011.8 of the Government Code is amended to read:

11011.8. (a) Whenever any person, as defined in Section 17, or public agency receives any state surplus real property at less than current market value, it shall pay all interim management and administrative

costs incurred by the state between the time the person or public agency expressed interest in obtaining the property and the completion of the transfer and all costs incurred by the state in transferring title to the property.

(b) This section does not apply to any transfer of surplus state property that was authorized on or before January 1, 1989.

(c) This section shall be inoperative for the period commencing with the effective date of the act that added this subdivision, until July 1, *2005*.

SEC. 33. Section 11011.9 of the Government Code is amended to read:

11011.9. (a) The Legislature finds and declares that:

(1) Disposition of surplus property owned by public agencies should be utilized to further state policies.

(2) There exists within the urban and rural areas of the state a serious shortage of decent, safe, and sanitary housing which persons and families of low or moderate income can afford, and consequently there is a pressing and urgent need for the preservation and expansion of the supply of housing for such persons.

(3) The provision of decent housing for all Californians is a state goal of the highest priority. The disposal of surplus land is a direct and substantial public purpose of statewide concern and will serve an important public purpose, including mitigating the environmental effects of state activities. Therefore, it is the intent of the Legislature that priority be given in the disposal of surplus state land to housing for persons and families of low or moderate income, where such land is suitable for housing and there is a need for such housing in the community.

(4) There is an identifiable deficiency in the amount of recreational land available to the public for park, recreational, school, and open-space purposes, as well as for housing and general community development purposes in accord with state policies.

(b) It is the intent of the Legislature that surplus state property be disposed of in a manner which furthers state policies in the areas of parks, recreation, schools, open space, and housing and community development, or any combination thereof.

(c) This section shall be inoperative for the period commencing with the effective date of the act that added this subdivision, until July 1, *2005*.

SEC. 34. Section 11011.10 is added to the Government Code, to read:

11011.10. (a) Until July 1, *2005,* the disposal of surplus state property, including any property already declared surplus by the

Legislature but not yet disposed of by the Department of General Services, shall be subject to the requirements of this section.

(b) Notwithstanding any other provision of law, all state agencies, departments, boards, and commissions, who have not already done so pursuant to Executive Order S-10-04, shall review the current and anticipated future prograinmatic need for the state-owned and leased property that they occupy or have under their stewardship, and identify and report any property surplus to their current or future needs to the Department of General Services. The department may provide instructions to facilitate the reporting and determination of surplus properties.

(c) (1) The department shall review the properties identified pursuant to Executive order S-10-04 and subdivision (b) to determine. whether those properties are surplus to the needs of the state, report the surplus properties to the Legislature, and request authorization from the Legislature to dispose of the properties by sale or otherwise.

(2) Any state agency with property under its jurisdiction that is determined to be surplus and authorized for disposition pursuant to this subdivision or by previous legislative action, shall provide for the maintenance of the property until it is disposed of by the department under this section.

(3) Jurisdiction of property determined to be surplus shall be transferred to the department, when requested by the Director of General Services, for sale or disposition under this section.

(d) (1) Subject to paragraphs (2) to (4), inclusive, the department may sell or otherwise dispose of property as authorized by the Legislature pursuant to subdivision (c), upon any terms and conditions and subject to any reservations and exceptions the department deems to be in the best interests of the state.

(2) **(A)** Notwithstanding any other provision of law, property that has been declared surplus and whose disposition has been authorized by the Legislature pursuant to subdivision (c) or by previous legislative action, and has been determined by the department not to be needed by any state agency, shall be offered to local governmental agencies prior to being offered for sale to private entities or individuals.

(B) In order to be considered as a potential buyer of the surplus property, local governmental agencies shall notify the department of their interest in the surplus state property within 60 days of receiving notice of the availability of the property. The sale of the property to a local governmental agency pursuant to this section shall be completed, and title transferred, within 90 days of the date the local governmental agency was notified of the availability of the property.

(3) If the sale of a surplus state property to a local governmental agency is not completed within the timeframe specified in subparagraph (B) of paragraph (2), the department shall offer the property for sale to private entities or individuals.

(4) Transfers of surplus property to local governmental agencies or private entities or individuals pursuant to this subdivision shall be at fair market value.

(e) Except as otherwise required by the California Constitution or federal law, the net proceeds of any property disposition, including the sale, lease, exchange, or other means, that is received pursuant to this section shall be paid into the General Fund. For purposes of this section, "net proceeds" means gross proceeds less all costs directly related to the completion of the transaction including, but not limited to, selling costs, transfer fees, commissions, and costs incurred by the department.

(f) Except as otherwise required by the California Constitution or federal law, any rental moneys or other revenues received by the department from real properties, the jurisdiction of which has been transferred to the department under this section, shall be deposited in the General Fund in the account established by Section 15863. Any expenditure required to maintain, repair, care for, and sell the real property shall be paid from the appropriation made by Section 15863.

(g) This section shall become inoperative on July 1,2005, and, as of January 1, 2006, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 35. Section 11794 of the Governrncnt Code is amended to read:

11794. (a) (1) The Stephen P. Teale Data Center may establish rates and collect payments from state agencies for providing services to those agencies. The methodology for computing costs and billing rates shall be subject to the approval of the Director of Finance.

(2) Commencing no later than August 1, 2005, and no later than August 1 annually thereafter, the Stephen P. Teale Data Center, or its successor entity, shall submit to the Department of Finance a proposal that reconciles the current fiscal year rates and details any adjustments proposed for budget fiscal year rates to be included in the Governor's Budget.

(b) (1) All money received by the data center pursuant to this section shall be deposited in the Stephen P. Teale Data Center Revolving Fund.

(2) In order to ensure that there is adequate cash in the fund, the data center may require monthly payments in advance by client agencies, based on estimated billings. By mutual agreement between the data

center and the applicable state agency, a state agency may make monthly, quarterly, or annual payments in advance or arrears.

(c) Consistent with subdivision (b), and pursuant to Section 11255, the Controller shall transfer any amounts so authorized by the data center. The data center shall notify each affected state agency upon requesting the Controller to make the transfer.

SEC. 36. Section 12012.90 of the Government Code is amended to read:

12012.90. (a) (1) For each fiscal year commencing with the 2002–03 fiscal year, the California Gambling Control Commission shall determine the aggregate amount of shortfalls in payments that occurred in the Indian Gaming Revenue Sharing Trust Fund pursuant to Section 4.3.2.1 of the tribal-state gaming compacts ratified and in effect as provided in subdivision (f) of Section 19 of Article IV of the California Constitution as determined below:

(A) For each eligible recipient Indian tribe that received money for all four quarters of the fiscal year, the difference between one million one hundred thousand dollars ($1,100,000) and the actual amount paid to each eligible recipient Indian tribe during the fiscal year from the Indian Gaming Revenue Sharing Trust Fund.

(B) For each eligible recipient Indian tribe that received moneys for less than four quarters of the fiscal year, the difference between two hundred seventy-five thousand dollars ($275,000) for each quarter in the fiscal year that a recipient Indian tribe was eligible to receive moneys and the actual amount paid to each eligible recipient Indian tribe during the fiscal year from the Indian Gaming Revenue Sharing Trust Fund.

(2) For purposes of this section, "eligible recipient Indian tribe" means a noncompact tribe, as defined in Section 4.3.2(a)(i) of the tribal-state gaming compacts ratified and in effect as provided in subdivision (f) of Section 19 of Article IV of the California Constitution.

(b) The California Gambling Control Commission shall provide to the committee in the Senate and Assembly that considers the State Budget an estimate of the amount needed to backfill the Indian Gaming Revenue Sharing Trust Fund on or before the date of the May budget revision for each fiscal year.

(c) An eligible recipient Indian tribe may not receive an amount from the backfill appropriated following the estimate made pursuant to subdivision (b) that would give the eligible recipient Indian tribe an aggregate amount in excess of two hundred seventy-five thousand dollars ($275,000) per eligible quarter. Any funds transferred from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund that result in a surplus shall revert back to

the Indian Gaming Special Distribution Fund following the authorization of the final payment of the fiscal year.

(d) Upon a transfer of moneys from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund and appropriation from the trust fund, the California Gambling Control Commission shall distribute the moneys without delay to eligible recipient Indian tribes for each quarter that a tribe was eligible to receive a distribution during the fiscal year immediately preceding.

SEC. 37. Section 12152 of the Government Code is amended to read:

12152. (a) To assist him or her in the discharge of the duties of his or her office, the Secretary of State may appoint one Assistant Secretary of State, whose powers, duties and liabilities shall be those of a deputy, and any deputies and clerical, expert, technical and other assistants necessary for the proper conduct of his or her office. The Assistant Secretary of State and all deputies are civil executive officers.

(b) Notwithstanding any other provision of law, but consistent with Section 4 of Article VII of the California Constitution and with subdivision (a) of this section, the Governor shall appoint four employees of the Secretary of State's office, who may be nominated by the Secretary of State, and who are exempt from state civil service.

SEC. 38. Section 12432 is added to the Government Code, to read:

12432. (a) The Legislature hereby finds and declares that it is essential for the state to replace the current automated human resource/payroll systems operated by the Controller to ensure that state employees continue to be paid accurately and on time and that the state may take advantage of new capabilities and improved business practices. To achieve this replacement of the current systems, the Controller is authorized to procure, modify, and implement a new human resource management system that meets the needs of a modern state government. This replacement effort is known as the 21st Century Project.

(b) Notwithstanding any other provision of law, beginning with the 2004–05 fiscal year, the Controller may assess the special and nongovernmental cost funds in sufficient amounts to pay for the authorized 21st Century Project costs that are attributable to those funds. Assessments in support of the expenditures for the 21st Century Project shall be made quarterly, and the total amount assessed from these funds annually may not exceed the total expenditures incurred by the Controller for the 21st Century Project that are attributable to those funds in that fiscal year. Appropriations for this purpose shall be made in the annual Budget Act.

(c) To the extent permitted by law, beginning with the 2004–05 fiscal year, the Controller shall establish agreements with various agencies and departments for the collection from federal funds of costs that are attributable to federal funds. The total amount collected from those agencies and departments annually may not exceed the total expenditures incurred by the Controller for the 21st Century Project that are attributable to federal funds in that fiscal year. Appropriations for that purpose shall be made in the annual Budget Act.

(d) It is the intent of the Legislature that, beginning not earlier than the 2006–07 fiscal year, future annual Budget Acts include General Fund appropriations in sufficient amounts for expenditures for the 21st Century Project that are attributable to the General Fund. It is the Legislature's intent that the share of the total project costs paid for by the General Fund shall be equivalent to the share of the total project costs paid for from special and nongovernmental cost fund assessments and collections from federal funds.

(e) This section shall remain in effect only until June 30, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before June 30, 2011, deletes or extends that date.

SEC. 39. Section 12439 of the Government Code is amended to read:

12439. (a) Beginning July 1, 2002, any state position that is vacant for six consecutive monthly pay periods shall be abolished by the Controller on the following July 1. The six consecutive monthly pay periods may occur entirely within one fiscal year or between two consecutive fiscal years.

(b) The Director of Finance may authorize the reestablishment of any positions abolished pursuant to this section if one or more of the following conditions existed during part or all of the six consecutive monthly pay periods:

(1) There was a hiring freeze in effect during part or all of the six consecutive pay periods.

(2) The department has diligently attempted to fill the position, but was unable to complete all the steps necessary to fill the position within six months.

(3) The position has been designated as a management position for purposes of collective bargaining and has been held vacant pending the appointment of the director, or other chief executive officer, of the department as part of the transition from one Governor to the succeeding Governor.

(4) The classification of the position is determined to be hard-to-fill.

(5) Late enactment of the budget causes the department to delay filling the position.

(c) The Controller shall reestablish any position for which the director of the department in which that position existed prior to abolishment certifies by August 15 that one or more of the following conditions existed during part or all of the six consecutive pay periods.

(1) The position is necessary for directly providing 24-hour care in an institution operated by the state.

(2) The position is necessary for the state to satisfy any licensing requirements adopted by a local, state, or federal licensing or other regulatory agency.

(3) The position is directly involved in services for public health, public safety, or homeland security.

(4) The position is being held vacant because the previous incumbent is eligible to exercise a mandatory right of return from a leave of absence as may be required by any provision of law including, but not limited to, leaves for industrial disability, nonindustrial disability, military service, pregnancy, childbirth, or care of a newborn infant.

(5) The position is being held vacant because the department has granted the previous incumbent a permissive leave of absence as may be authorized by any provision of law including, but not limited to, leaves for adoption of a child, education, civilian military work, or to assume a temporary assignment in another agency.

(6) Elimination of the position will directly reduce state revenues or other income by more than would be saved by elimination of the position.

(7) The position is funded entirely from moneys appropriated pursuant to Section 221 of the Food and Agricultural Code, was established with the Controller pursuant to Section 221.1 of the Food and Agricultural Code, and directly responds to unforeseen agricultural circumstances requiring the relative expertise that the position provides.

(d) Each department shall maintain for future independent audit all records on which the department relied in determining that any position or positions satisfied one or more of the criteria specified in paragraphs (1) to (6), inclusive, of subdivision (c).

(e) The only other exceptions to the abolishment required by subdivision (a) are those positions exempt from civil service or those instructional and instruction-related positions authorized for the California State University. No money appropriated by the subsequent Budget Act shall be used to pay the salary of any otherwise authorized state position that is abolished pursuant to this section.

(f) The Controller, no later than September 10 of each fiscal year, shall furnish the Department of Finance in writing a preliminary report of any authorized state positions that were abolished effective on the preceding July 1 pursuant to this section.

(g) The Controller, no later than October 15 of each fiscal year, shall furnish the Joint Legislative Budget Committee and the Department of Finance a final report on all positions that were abolished effective on the preceding July 1.

(h) Departments shall not execute any personnel transactions for the purpose of circumventing the provisions of this section.

(i) Each department shall include a section discussing its compliance with this section when it prepares its report pursuant to Section 13405.

(j) As used in this section, department refers to any department, agency, board, commission, or other organizational unit of state government that is empowered to appoint persons to civil service positions.

(k) This section shall become operative July 1, 2002.

SEC. **40.** Section 12715 of the Government Code is amended to read:

12715. (a) The Controller, acting in consultation with the California Gambling Control Commission, shall divide the County Tribal Casino Account for each county that has gaming devices that are subject to an obligation to make contributions to the Indian Gaming Special Distribution Fund into a separate account for each tribe that operates a casino within the county. These accounts shall be known as Individual Tribal Casino Accounts, and funds may be released from these accounts to make grants selected by an Indian Gaming Local Community Benefit Committee pursuant to the method established by this section to local jurisdictions impacted by tribal casinos. Each Individual Tribal Casino Account shall be funded in proportion to the amount that each individual tribe paid in the prior fiscal year to the Indian Gaming Special Distribution Fund.

(b) (1) There is hereby created in each county in which Indian gaming is conducted an Indian Gaming Local Community Benefit Committee. The selection of all grants from each Individual Tribal Casino Account or County Tribal Casino Account shall be made by each county's Indian Gaming Local Community Benefit Committee. In selecting grants, the Indian Gaming Local Community Benefit Committee shall follow the priorities established in subdivision (g). This committee has the following additional responsibilities:

(A) Establishing all application policies and procedures for grants from the Individual Tribal Casino Account or County Tribal Casino Account.

(B) Assessing the eligibility of applications for grants from local jurisdictions impacted by tribal gaming operations.

(C) Determining the appropriate amount for reimbursement from the aggregate county tribal account of the demonstrated costs incurred by

the county for administering the grant programs. The reimbursement for county administrative costs may not exceed 2 percent of the aggregate county tribal account in any given fiscal year.

(2) The Indian Gaming Local Community Benefit Committee shall be composed of seven representatives, consisting of the following:

(A) Two representatives from the county, selected by the county board of supervisors.

(B) Three elected representatives from cities located within four miles of a tribal casino in the county, selected by the county board of supervisors. In the event that there are no cities located within four miles of a tribal casino in the county, other local representatives may be selected upon mutual agreement by the county board of supervisors and a majority of the tribes paying into the Indian Gaming Special Distribution Fund in the county. When there are no cities within four miles of a tribal casino in the county, and when the Indian Gaming Local Community Benefit Committee acts on behalf of a county where no tribes pay into the Indian Gaming Special Distribution Fund, other local representatives may be selected upon mutual agreement by the county board of supervisors and a majority of the tribes operating casinos in the county.

(C) Two representatives selected upon the recommendation of a majority of the tribes paying into the Indian Gaming Special Distribution Fund in each county. When an Indian Gaming Local Community Benefit Committee acts on behalf of a county where no tribes pay into the Indian Gaming Special Distribution Fund, the two representatives may be selected upon the recommendation of the tribes operating casinos in the county.

(c) Sixty percent of each individual tribal casino account shall be available for nexus grants on a yearly basis to cities and counties impacted by tribes that are paying into the Indian Gaming Special Distribution Fund, according to the four-part nexus test described in paragraph (1). Grant awards shall be selected by each county's Indian Gaming Local Community Benefit Committee and shall be administered by the county. Grants may be awarded on a multiyear basis, and these multiyear grants shall be accounted for in the grant process for each year.

(1) **A** nexus test based on the geographical proximity of a local government jurisdiction to an individual Indian land upon which a tribal casino is located shall be used by each county's Indian Gaming Local Community Benefit Committee to determine relative priority for grants, using the following criteria:

(A) Whether the local government jurisdiction borders the Indian lands on all sides.

(B) Whether the local government jurisdiction partially borders Indian lands.

(C) Whether the local government jurisdiction maintains a highway, road, or other thoroughfare that is the predominant access route to a casino that is located within four miles.

(D) Whether all or a portion of the local government jurisdiction is located within four miles of a casino.

(2) Fifty percent of the amount specified in subdivision (c) shall be awarded in equal proportions to local government jurisdictions that meet all four of the nexus test criteria in paragraph (1). If no eligible local government jurisdiction satisfies this requirement, the amount specified in this paragraph shall be made available for nexus grants in equal proportions to local government jurisdictions meeting the requirements of paragraph (3) or (4).

(3) Thirty percent of the amount specified in subdivision (c) shall be awarded in equal proportions to local government jurisdictions that meet three of the nexus test criteria in paragraph (1). If no eligible local government jurisdiction satisfies this requirement, the amount specified in this paragraph shall be made available for nexus grants in equal proportions to local government jurisdictions meeting the requirements of paragraph (2) or (4).

(4) Twenty percent of the amount specified in subdivision (c) shall be awarded in equal proportions to local government jurisdictions that meet two of the nexus test criteria in paragraph (1). If no eligible local government jurisdiction satisfies this requirement, the amount specified in this paragraph shall be made available for nexus grants in equal proportions to local government jurisdictions meeting the requirements of paragraph (2) or (3).

(d) Twenty percent of each individual tribal casino account shall be available for discretionary grants to local jurisdictions impacted by tribes that are paying into the Indian Gaming Special Distribution Fund. These discretionary grants shall be made available to all local jurisdictions in the county irrespective of any nexus to impacts from any particular tribal casino, as described in paragraph (1) of subdivision (c). Grant awards shall be selected by each county's Indian Gaming Local Community Benefit Committee and shall be administered by the county. Grants may be awarded on a multiyear basis, and these multiyear grants shall be accounted for in the grant process for each year.

(e) **(1)** Twenty percent of each individual tribal casino account shall be available for discretionary grants to local jurisdictions impacted by tribes that are not paying into the Indian Gaming Special Distribution Fund. These grants shall be made available to local jurisdictions in the county irrespective of any nexus to impacts from any particular tribal

casino, as described in paragraph (1) of subdivision (c), and irrespective of whether the impacts presented are from a tribal casino that is not paying into the Indian Gaming Special Distribution Fund. Grant awards shall be selected by each county's Indian Gaming Local Community Benefit Committee and shall be administered by the county. Grants may be awarded on a multiyear basis, and of these multiyear grants shall be accounted for in the grant process for each year.

(A) Grants awarded pursuant to this subdivision are limited to addressing service-oriented impacts and providing assistance with one-time large capital projects related to Indian gaming impacts.

(B) Grants shall be subject to the sole sponsorship of the tribe that pays into the Indian Gaming Special Distribution Fund and the recommendations of the Indian Gaming Local Community Benefit Committee for that county.

(2) If an eligible county does not have a tribal casino operated by a tribe that does not pay into the Indian Gaming Special Distribution Fund, the money available for discretionary grants under this subdivision shall be available for distribution pursuant to subdivision (d).

(f) (1) For each county that does not have gaming devices subject to an obligation to make payments to the Indian Gaming Special Distribution Fund, funds may be released from the county's County Tribal Casino Account to make grants selected by the county's Indian Gaming Local Community Benefit Committee pursuant to the method established by this section to local jurisdictions impacted by tribal casinos. These grants shall be made available to local jurisdictions in the county irrespective of any nexus to any particular tribal casino. These grants shall follow the priorities specified in subdivision (g).

(2) Funds not allocated from an individual tribal casino account by the end of each fiscal year shall revert back to the Indian Gaming Special Distribution Fund. Moneys allocated for the 2003–04 fiscal year shall be eligible for expenditure through December 31, 2004.

(g) The following uses shall be the priorities for the receipt of grant money from Individual Tribal Casino Accounts: law enforcement, fire services, emergency medical services, environmental impacts, water supplies, waste disposal, behavioral, health, planning and adjacent land uses, public health, roads, recreation and youth programs, and child care programs.

(h) All grants from Individual Tribal Casino Accounts shall be made only upon the affirmative sponsorship of the tribe paying into the Indian Gaming Special Distribution Fund from whose individual tribal casino account the grant moneys are available for distribution. Tribal sponsorship shall confirm that the grant application has a reasonable relationship to a casino impact and satisfies at least one of the priorities

listed in subdivision (g). A grant may not be made for any purpose that would support or fund, directly or indirectly, any effort related to opposition or challenge to Indian gaming in the state, and, to the extent any awarded grant is utilized for any prohibited purpose by any local government, upon notice given to the county by any tribe from whose Individual Tribal Casino Account the awarded grant went toward that prohibited use, the grant shall terminate immediately and any moneys not yet used shall again be made available for qualified nexus grants.

(i) **A** local government jurisdiction that is a recipient of a grant from an Individual County Tribal Casino Account or a County Tribal Casino Account shall provide notice to the public, either through a slogan, signage, or other mechanism, which states that the local government project has received funding from the Indian Gaming Special Distribution Fund and which further identifies the particular Individual Tribal Casino Account from which the grant derives.

(j) (1) Each county's Indian Gaming Local Benefit Committee shall submit to the Controller a list of approved projects for funding from Individual Tribal Casino Accounts. Upon receipt of this list, the Controller shall release the funds directly to the local government entities for which a grant has been approved by the committee.

(2) Funds not allocated from an individual tribal casino account by the end of each fiscal year shall revert back to the Indian Gaming Special Distribution Fund. Moneys allocated for the 2003–04 fiscal year shall be eligible for expenditure through December 31, 2004.

SEC. 41. Section 13332.04 of the Government Code is repealed.

SEC. 42. Section 13332.11 of the Government Code is amended to read:

13332.11. (a) (1) Except as otherwise specified in paragraph (2), no funds appropriated for capital outlay may be expended by any state agency, including the University of California, the California State University, and the community colleges, until the Department of Finance and the State Public Works Board have approved preliminary plans for the project to be funded from a capital outlay appropriation.

(2) Paragraph (1) shall not apply to any of the following:

(A) Amounts for acquisition of real property in fee, or any other lesser interest.

(B) Amounts for equipment or minor capital outlay projects.

(C) Amounts appropriated for preliminary plans, surveys, and studies.

(b) Notwithstanding subdivision (a), approvals by the State Public Works Board and the Department of Finance for the University of California and the community colleges shall apply only to the allocation

of state capital outlay funds appropriated by the Legislature, including land acquisition and equipment funds.

(c) Any appropriated amounts for working drawings or construction where the working drawings or construction have been started by any state agency prior to approval of the preliminary plans by the State Public Works Board, and all amounts not approved by the board under this section shall be reverted to the fund from which the appropriation was made. No major project for which a capital outlay appropriation is made shall be put out to bid until the working drawings have been approved by the Department of Finance. No substantial change shall be made to the approved preliminary plans or approved working drawings without written approval by the Department of Finance. Any proposed construction bid alternates shall be approved by the Department of Finance.

(d) The Department of Finance shall approve the use of funds from a capital outlay appropriation for the purchase of any significant unit of equipment.

(e) The State Public Works Board may augment a major project in an amount of up to 20 percent of the total of the capital outlay appropriations for the project, irrespective of whether any such appropriation has reverted. The State Public Works Board shall defer all augmentations in excess of 20 percent of the amount appropriated for each capital outlay project until the Legislature makes additional funds available for the specific project.

(f) In addition to the powers provided by Section 15849.6, the State Public Works Board may further increase the additional amount in Section 15849.6 to include a reasonable construction reserve within the Construction fund for any capital outlay project without augmenting the project. The amount of the construction reserve shall be within the 20 percent augmentation limitation. The State Public Works Board may use this amount to augment the project, when and if necessary, after the lease revenue bonds are sold to assure completion of the project. Upon completion of the project, any amount remaining in the construction reserve funds shall be used to offset rental payments.

(g) Augmentations in excess of 10 percent of the amount appropriated for each capital outlay project shall be reported to the Chairperson of the Joint Legislative Budget Committee, or his or her designee, 20 days prior to board approval, or not sooner than whatever lesser time the chairperson, or his or her designee, may in each instance determine.

(h) Prior to State Public Works Board action on any capital outlay appropriation, the Department of Finance shall certify, in writing, to the Chairperson of the Joint Legislative Budget Committee, the

chairpersons of the respective fiscal committees, and the legislative advisors of the board that the requested action is in accordance with the legislatively approved scope and cost. If, pursuant to the other provisions of this section, the Department of Finance approves changes to the approved scope or cost, or both, the department shall report the changes and associated cost implications.

(i) The State Public Works Board shall defer action with respect to approval of an acquisition project, when it is determined that the estimated cost of the total acquisition project, as approved by the Legislature is in excess of 20 percent of the amount appropriated, unless it is determined that a lesser portion of the property is sufficient to meet the objectives of the project approved by the Legislature, and the Chairperson of the Joint Legislative Budget Committee, or his or her designee, is provided a 20-day prior notification of the proposed reductions in the acquisition project, or whatever lesser period the chairperson, or his or her designee, may in each instance determine.

(j) The State Public Works Board shall defer action with respect to the approval of preliminary plans when it is determined that the estimated cost of the total capital outlay construction project, as approved by the Legislature, is in excess of 20 percent of the amount appropriated.

(k) Nothing in this section shall be construed to limit or control the Department of Transportation or the California Exposition and State Fair in the expenditure of all funds appropriated to the department for capital outlay purposes.

SEC. 43. Section 13332.19 of the Government Code is amended to read:

13332.19. (a) For the purposes of this section, the following definitions shall apply:

(1) "Design-build'' means a construction procurement process in which both the design and construction of a project are procured from a single entity.

(2) "Design-build project'' means a capital outlay project using the design-build construction procurement process.

(3) "Design-build entity" means a partnership, corporation, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services as needed.

(4) "Design-build solicitation package" means the performance criteria, any concept drawings deemed necessary by the Department of General Services, the form of contract, and all other documents and information that serve as the basis on which bids or proposals will be solicited from the design-build entities.

(5) "Design-build phase" means the period following the award of a contract to a design-build entity in which the design-build entity

completes the design and construction activities necessary to fully complete the project in compliance with the terms of the contract.

(6) "Performance criteria" means the information that fully describes the scope of the proposed project and includes, but is not limited to, the size, type, and design character of tlic buildings and site; the required form, fit, function, operational requirements, and quality of design, materials, equipment, and workmanship; and any other information deemed necessary to sufficiently describe the state's needs.

(7)"Concept drawings" means any schematic drawings or architectural renderings that are prepared, in addition to performance criteria, in such detail as the Director of General Services determines necessary to sufficiently describe the state's needs.

(b) Except as otherwise specified in paragraphs (1) to (4), inclusive, no funds appropriated for a design-build project may be expended until the Department of Finance and the State Public Works Board have approved performance criteria or performance criteria and concept drawings for the project.

This section shall not apply to any of the following:

(1) Amounts for acquisition of real property, in fee or any lesser interest.

(2) Amounts for equipment or minor capital outlay projects.

(3) Amounts appropriated for performance criteria and concept drawings.

(4) Amounts appropriated for preliminary plans, if the appropriation was made prior to January 1,2005.

(c) Any appropriated amounts for the design-build phase of a design-build project, where funds have been expended on the design-build phase by any state agency prior to the approval of the performance criteria or the performance criteria and concept drawings by the State Public Works Board, and all amounts not approved by the State Public Works Board under this section shall be reverted to the fund from which the appropriation was made. No design-build project for which a capital outlay appropriation is made shall be put out to design-build solicitation until the bid package has been approved by the Department of Finance. No substantial change shall be made to the performance criteria or to performance criteria and concept drawings as approved by the State Public Works Board and the Department of Finance without written approval by the Department of Finance. Any proposed bid alternates shall be approved by the Department of Finance.

(d) The State Public Works Board may augment a design-build project in an amount of up to 20 percent of the capital outlay appropriations for the project, irrespective of whether any such appropriation has reverted. The State Public Works Board shall defer all

augmentations in excess of 20 percent of the amount appropriated for each design-build project until the Legislature makes additional funds available for the specific project.

(e) In addition to the powers provided by Section 15849.6, the State Public Works Board may further increase the additional amount in Section 15849.6 to include a reasonable construction reserve within the construction fund for any capital outlay project without augmenting the project. The amount of the construction reserve shall be within the 20 percent augmentation limitation. The State Public Works Board may use this amount to augment the project, when and if necessary, after the lease revenue bonds are sold to assure completion of the project. Upon completion of the project, any amount remaining in the construction reserve fund shall be used to offset rental payments.

(f) Any augmentation in excess of 10 percent of the amounts appropriated for each design-build project shall be reported to the Chairperson of the Joint Legislative Budget Committee, or his or her designee, 20 days prior to board approval, or not sooner than whatever lesser time the chairperson, or his or her designee, may in each instance determine.

(g) Prior to State Public Works Board action on any capital outlay appropriation for a design-build project, the Department of Finance shall certify, in writing, to the Chairperson of the Joint Legislative Budget Committee, the chairpersons of the respective fiscal committees, and the legislative members of the board that the requested action is in accordance with the legislatively approved scope and cost. If, pursuant to other provisions of this section, the Department of Finance approves changes to the approved scope or cost, or both, the department shall report the changes and associated cost implications.

(h) The State Public Works Board shall defer action with respect to approval of performance criteria or performance criteria and concept drawings, when it is determined that the estimated cost of the total design-build project approved by the Legislature is in excess of 20 percent of the amount appropriated.

SEC. 44. Section 13923 of the Government Code is amended to read:

13923. The board may approve plans for payroll deduction from the salaries or wages of state officers and employees under subdivision (f) of Section 1151 for charitable contributions to the agency handling the principal combined fund drive in any area. The board shall establish necessary rules and regulations, including the following:

(a) Standards for establishing what constitutes the principal combined fund drive in an area.

(b) A requirement that the agency to receive these Contributions shall pay, for deposit in the General Fund, the additional cost to the state of making these deductions and remitting the proceeds, as determined by the Controller.

(c) A requirement that the agency to receive these contributions shall pay, for deposit in the General Fund, the board's cost to administer the annual charitable campaign fund drive. This amount shall be determined by the board and may be appropriated in support of the board as reimbursements to Item 8700-001-0001 of the annual Budget Act.

(d) Provisions for standard amounts of deductions from which each state officer or employee may select the contribution that he or she desires to make, if any.

(e) A prohibition upon state officers or employees authorizing more than one payroll deduction for charitable purposes to be in effect at the same time.

(f) A provision authorizing the Controller to combine in his or her records deductions for employee association dues, if authorized, and charitable deductions, if authorized.

The board, in addition, may approve requests of any charitable organization qualified as an exempt organization under Section 23701d of the Revenue and Taxation Code, and paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, which is not an affiliated member beneficiary of the principal combined fund drive to receive designated deductions from the principal fund drive.

The principal combined fund drive agency, any charitable organization which is an affiliated member beneficiary of the principal combined fund drive, and any charitable organization approved by the board to receive designated deductions on the payroll authorization form of the principal fund drive, shall certify under penalty of perjury to the board that it is in compliance with the Fair Employment and Housing Act, Part 2.8 (commencing with Section 12900), as a condition of receiving these designated deductions.

The principal combined fund drive shall obtain from the board the list of approved nonaffiliated beneficiaries, eligible for designated deductions in its approved drive area, and shall provide this information to each employee at the time of the principal fund drive. The principal combined drive agency shall provide a designation form for the employee to indicate those amounts to be contributed to affiliated and nonaffiliated beneficiaries. The designation form shall consist of a copy for each of the following: (1) the employee, (2) the employee's designated beneficiary agency, and (3) the principal combined fund drive agency. The principal combined fund drive agency shall pay the amount collected for the employee designated beneficiary agency less

the amount necessary to reimburse the principal combined fund drive agency for fundraising and administrative expenses. The fee charged for fundraising and administrative cost reimbursement shall be determined by the board, published in campaign literature and made available to the employee during the solicitation process.

Nothing contained in this section shall preclude a principal fund drive agency from giving a percentage of the undesignated funds to charities which are not members of the agency handling the principal drive, or honoring an employee's designated deduction to any charitable organization.

SEC. 45. Section 14604 is added to the Government Code, to read:

14604. Commencing no later than August 1, 2005, and no later than August 1 annually thereafter, the Department of General Services shall submit to the Department of Finance a proposal that reconciles the current fiscal year rates for service fees charged by the Department of General Services to state agencies, and details any adjustments proposed for budget fiscal year rates to be included in the Governor's Budget.

SEC. 46. Section 14612.2 of the Government Code is amended to read:

14612.2. (a) Notwithstanding Chapter 7 (Commencing with Section 14850) of Part 5.5 of Division 3 of Title 2 of, or Section 14901 of, the Government Code, no agency is required to use the Office of State Publishing for its printing needs and the Office of State Publishing may offer printing services to both state and other public agencies, including cities, counties, special districts, community college districts, the California State University, the University of California, and agencies of the United States govemment. When soliciting bids for printing services from the private sector, all state agencies shall also solicit a bid from the Office of State Publishing when the project is anticipated to cost more than five thousand dollars ($5,000).

(b) This section shall remain operative only until the effective date of the Budget Act of 2005 or July 1, 2005, whichever is later, and as of January 1,2006, is repealed, unless a later enacted statute that is enacted before January 1,2006, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 47. Section 14661 of the Government Code is amended to read:

14661. (a) For the purposes of this section, the definitions in subdivision (a) of Section 13332.19 shall apply.

(b) Notwithstanding any provision of the Public Contract Code or any other provision of law, when the Legislature authorizes the use of the design-build construction procurement process for a specific project, the Director of General Services may contract and procure state office

facilities and othcr buildings, structures, and related facilities pursuant to this section.

(c) Prior to contracting with a design-build entity for the procurement of state office facilities and other state buildings and structures, the director shall:

(1) Prepare a program setting forth the performance criteria for the design-build project. The performance criteria shall be prepared by a design professional duly licensed and registered in the State of California.

(2) **(A)** Establish a competitive prequalification and selection process for design-build entities, including any subcontractors listed at the time of bid, that clearly specifies the prequalification criteria, and states the manner in which the winning design-build entity will be selected.

(B) Prequalification shall be limited to consideration of all of the following criteria:

(i) Possession of all required licenses, registration, and credentials in good standing that are required to design and construct the project.

(ii) Submission of evidence that establishes that the design-build entity members have completed, or demonstrated the capability to complete, projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project.

(iii) Submission of a proposed project management plan that establishes that the design-build entity has the experience, competence, and capacity needed to effectively complete the project.

(iv) Submission of evidence that establishes that the design-build entity has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance, as well as a financial statement that assures the department that the design-build entity has the capacity to complete the project.

(v) Provision of a declaration certifying that applying members of the design-build entity have not had a surety company finish work on any project within the last five years.

(vi) Provision of information and a declaration providing detail concerning all of the following:

(I) Any construction or design claim or litigation totaling more than five hundred thousand dollars ($500,000) or 5 percent of the annual value of work performed, whichever is less, settled against any member of the design-build entity over the last five years.

(II) Serious violations of the Occupational Safety and Health Act, as provided in Part 1 (commencing with Section 6300) of Division 5 of the Labor Code, settled against any member of the design-build entity.

(III) Violations of federal or state law, including, but not limited to, those laws governing the payment of wages, benefits, or personal income tax withholding, or of Federal Insurance Contributions Act (FICA) withholding requirements, state disability insurance withholding, or unemployment insurance payment requirements, settled against any member of the design-build entity over the last five years. For the purposes of this subclause, only violations by a design-build member as an employer shall be deemed applicable, unless it is shown that the design-build entity member, in his or her capacity as an employer, had knowledge of his or her subcontractor's violations or failed to comply with the conditions set forth in subdivision (b) of Section 1775 of the Labor Code.

(IV) Information required by Section 10162 of the Public Contract Code.

(V) Violations of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), excluding alleged violations or complaints.

(VI) Any conviction of any member of the design-build entity of submitting a false or fraudulent claim to a public agency over the last five years.

(vii) Provision of a declaration that the design-build entity will comply with all other provisions of law applicable to the project, including, but not limited to, the requirements of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(C) The director, when requested by the design-build entity, shall hold in confidence any information required by clauses (i) to (vi), inclusive.

(D) Any declaration required under subparagraph (C) shall state that reasonable diligence has been used in its preparation and that it is true and complete to the best of the signer's knowledge. A person who certifies as true any material matter that he or she knows to be false is guilty of a misdemeanor and shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars ($5,000), or by both the fine and imprisonment.

(3) **(A)** Determine, as he or she deems in the best interests of the state, which of the following methods listed in subparagraph (C) will be used as the process for the winning design-build entity. The director shall provide a notification to the State Public Works Board, regarding the

method selected for determining the winning design-build entity, at least 30 days prior to publicizing the design-build solicitation package.

(B) The director shall make his or her determination by choosing one of the following methods:

(i) A design-build competition based upon performance, price, and other criteria set forth by the department in the design-build solicitation package. The department shall establish technical criteria and methodology, including price, to evaluate proposals and shall describe the criteria and methodology in the design-build solicitation package. Award shall be made to the design-build entity whose proposal is judged as providing the best value in meeting the interest of the department and meeting the objectives of the project, A project with an approved budget of ten million dollars ($10,000,000) or more may be awarded pursuant to this clause.

(ii) A design-build competition based upon performance and other criteria set forth by the department in the design-build solicitation package. Criteria used in this evaluation of proposals may include, but need not be limited to, items such as proposed design approach, life-cycle costs, project features, and functions. However, any criteria and methods used to evaluate proposals shall be limited to those contained in the design-build solicitation package. Award shall be made to the design-build entity whose proposal is judged as providing the best value, for the lowest price, meeting the interests of the department and meeting the objectives of the project. **A** project with an approved budget of ten million dollars ($10,000,000) or more may be awarded pursuant to this clause.

(iii) A design-build competition based upon program requirements and a detailed scope of work, including any performance criteria and concept drawings set forth by the department in the design-build solicitation package. Award shall be made on the basis of the lowest responsible bid. A project with an approved budget of two hundred fifty thousand dollars ($250,000) or more may be awarded pursuant to this clause.

(4) For the purposes of this subdivision, the following definitions shall apply:

(A) "Best interest of the state" means a design-build process that is projected by the director to reduce the project delivery schedule and total cost of a project while maintaining a high level of quality workmanship and materials, when compared to the traditional design-bid-build process.

(B) "Best value" means a value determined by objective criteria that may include, but is not limited to, price, features, functions, life cycle

costs, experience, and other criteria deemed appropriate by the department.

(d) The Legislature recognizes that the design-build entity is charged with performing both design and construction. Because a design-build contract may be awarded prior to the completion of the design, it is often impracticable for the design-build entity to list all subcontractors at the time of the award. As a result, the subcontractor listing requirements contained in Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code can create a conflict with the implementation of the design-build process by requiring all subcontractors to be listed at a time when a sufficient set of plans may not be available. It is the intent of the Legislature to establish a clear process for the selection and award of subcontracts entered into pursuant to this section in a manner that retains protection for subcontractors while enabling design-build projects to be administered in an efficient fashion. Therefore, all of the following requirements shall apply to subcontractors, licensed pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, that are employed on design-build projects undertaken pursuant to this section:

(1) The department, in each design-build solicitation package, may identify types of subcontractors, by subcontractor license classification, that will be listed by the design-build entity at the time of the bid. In selecting the subcontractors that will be listed by the design-build entity, the department shall limit the identification to only those license classifications deemed essential for proper completion of the project. In no event, however, may the department specify more than five licensed subcontractor classifications. In addition, at its discretion, the design-build entity may list an additional two subcontractors, identified by subcontractor license classification, that will perform design or construction work, or both, on the project. In no event shall the design-build entity list at the time of bid a total amount of subcontractors that will perform design or construction work, or both, in a total of more than seven subcontractor license classifications on a project. All subcontractors that are listed at the time of bid shall be afforded all of the protection contained in Chapter 4 (commencing with Section 4100) of Part I of Division 2 of the Public Contract Code. All subcontracts that were not listed by the design-build entity at the time of bid shall be awarded in accordance with paragraph (2).

(2) All subcontracts that were not to be performed by the design-build entity in accordance with paragraph (1) shall be competitively bid and awarded by the design-build entity, in accordance with the design-build

process set forth by the department in the design-build solicitation package. The dcsign-build entity shall do all of the following:

(A) Provide public notice of the availability of work to be subcontracted in accordance with Section 10140 of the Public Contract Code.

(B) Provide a fixed date and time on which the subcontracted work will be awarded in accordance with Section 10141 of the Public Contract Code.

(C) As authorized by the department, establish reasonable prequalification criteria and standards, limited in scope to those detailed in paragraph (2) of subdivision (c).

(D) Provide that the subcontracted work shall be awarded to the lowest responsible bidder.

(e) This section shall not be construed and is not intended to extend or limit the authority specified in Section 19130.

(f) Any design-build entity that is selected to design and construct a project pursuant to this section shall possess or obtain sufficient bonding consistent with applicable provisions of the Public Contract Code. Nothing in this section shall prohibit a general or engineering contractor from being designated the lead entity on a design-build entity for the purposes of purchasing necessary bonding to cover the activities of the design-build entity.

(g) Any payment or performance bond written for the purposes of this section shall use a bond form developed by the department. In developing the bond form, the department shall consult with the surety industry to achieve a bond form that is consistent with surety industry standards, while protecting the interests of the state.

SEC. 48. Section 15201 of the Government Code is amended to read:

15201. **As** used in this chapter, "costs incurred by the county" means all costs, except normal salaries and expenses, incurred by the county in bringing to trial or trials, including the trial or trials of, a person or persons for the offense of homicide, including costs, except normal salaries and expenses, incurred by the district attorney in investigation and prosecution, by the sheriff in investigation, by the public defender or court-appointed attorney or attorneys in investigation and defense, and all other costs, except normal salaries and expenses, incurred by the county in connection with bringing the person or persons to trial including the trial itself, which includes extraordinary expenses for such services as witness fees and expenses, court-appointed expert witnesses, reporter fees, and costs in preparing transcripts. Trial costs shall also include all pretrials, hearings, and postconviction proceedings, **if** any.

"Costs incurred by the county" do not include any costs paid by the superior court or for which the superior court is responsible.

SEC. **49.** Section 16182 of the Government Code is amended to read:

16182. (a) All sums paid by the Controller under the provisions of this chapter, together with interest thereon, shall be secured by a lien in favor of the State of California upon the real property or a mobilehome for which property taxes have been postponed, or both. In the case of a residential dwelling which is part of a larger parcel taxed as a unit, such as a duplex, farm, or multipurpose or multidwelling building, the lien shall be against the entire tax parcel.

(b) In the case of real property:

(1) The lien shall be evidenced by a notice of lien for postponed property taxes executed by the Controller, or the authorized delegate of the Controller, and shall secure all sums paid or owing pursuant to this chapter, including amounts paid subsequent to the initial payment of postponed taxes on the real property described in the notice of lien.

(2) The notice of lien may bear the facsimile signature of the Controller. Each signature shall be that of the person who shall be in the office at the time of execution of the notice of lien; provided, however, that such notice of lien shall be valid and binding notwithstanding any such person having ceased to hold the office of Controller before the date of recordation.

(3) The form and contents of the notice of lien for postponed property taxes shall be prescribed by the Controller and shall include, but not be limited to, the following:

(A) The names of all record owners of the real property for which the Controller has advanced funds for the payment of real property taxes.

(B) A description of the real property for which real property taxes have been paid.

(C) The identification number of the notice of lien which has been assigned the lien by the Controller.

(4) The notice of lien shall be recorded in the office of the county recorder for the county in which the real property subject to the lien is located.

(5) The recorded notice of lien shall be indexed in the Grantor Index to the names of all record owners of the real property and in the Grantee Index to the Controller of the State of California.

(6) After the notice of lien has been duly recorded and indexed, it shall be returned by the county recorder to the office of the Controller. The recorder shall provide the county tax collector with a copy of the notice of lien which has been recorded by the Controller.

(7) From the time of recordation of a notice of lien for postponed property taxes, a lien shall attach to the real property described therein and shall have the priority of a judgment lien for all amounts secured thereby, except that the lien shall remain in effect until either of the following occurs:

(A) It is released by the Controller in the manner prescribed by Section 16186.

(B) The foreclosure or sale of an obligation secured by a lien which is senior in priority to the lien of the State of California.

(c) In the case of mobilehomes:

(1) The lien shall be evidenced by a notice of lien for postponed property taxes executed by the Controller, or the authorized delegate of the Controller, and shall secure all sums paid or owing pursuant to this chapter.

(2) The notice of lien may bear the facsimile signature of the Controller. The signature shall be that of the person who is in the office at the time of execution of the notice of lien. However, the notice of lien is valid and binding notwithstanding the person having ceased to hold the office of Controller before the date of filing.

(3) The form and contents of the notice of lien for postponed property taxes shall be prescribed by the Controller and shall include, but not be limited to, all of the following:

(A) The name or names of the registered owner or owners, legal owner or owners, if different **than** the registered owner or owners and the names, if any, of all junior lienholders.

(B) The identification number of the notice of lien which has been assigned the lien by the Controller.

(4) The notice of lien shall be transmitted to the Department of Housing and Community Development at its office in Sacramento, California.

(5) Upon receipt of the notice of lien for postponed property taxes from the Controller, the Department of Housing and Community Development shall amend the permanent title record of the mobilehome to reflect that the property taxes on the mobilehome are subject to postponement.

(6) The Department of Housing and Community Development shall provide the Controller with an acknowledgement of receipt and amendment of the permanent title record.

(7) From the time the Department of Housing and Community Development receives the notice of lien from the Controller, the department shall impose a moratorium on any other amendments to the permanent title record of the mobilehome for purposes of transferring any ownership interest or transferring or creating any security interest in

the mobilehome, until released by the Controller in the manner prescribed by Section 16186 or an authorization for the amendments is given by the Controller in writing.

(d) From the time of filing a notice of lien, a lien shall attach to the mobilehome for which eligibility for the postponement of property taxes has been granted.

(e) Notwithstanding any other provision in this section, any action required of a local agency by this section in order to give effect to the Senior Citizens Mobilehome Property Tax Postponement Law (Chapter 3.3 (commencing with Section 20639) of Part 10.5 of Division 2 of the Revenue and Taxation Code, and that has been determined by the Commission on State Mandates to be a reimbursable mandate, shall be optional.

SEC. 50. Section 16320 of the Government Code is amended to read:

16320. (a) Unless otherwise prohibited by law, moneys in the State Treasury may be loaned from one state fund or account to any other state fund or account to address the 2001–02, 2002–03, and 2003–04 fiscal year budgetary shortfalls, subject to all of the following conditions:

(1) The loan is authorized in the 2002 Budget Act, legislation enacted in a 2003–04 Extraordinary Session, or the 2003 Budget Act.

(2) The terms and conditions of the loan, including an interest rate, are set forth in the loan authorization.

(3) The loan is considered part of the balance of the fund or account that received the funds for the purpose of accounting and budgeting, including any determination made pursuant to Section 13307.

(4) The loan is not deducted from the balance of the fund or account from which the loan is made for purposes of calculating a fee or assessment.

(5) **A** fee or assessment is not increased as a result of a loan.

(6) Moneys loaned under this section are not considered a transfer of resources for purposes of determining the legality of the use of those moneys by the fund or account from which the loan is made or the fund or account that received the loan.

(b) (1) The Director of Finance shall order the repayment of all or a portion of any loan made pursuant to subdivision (a) if he or she determines that either of the following circumstances exists:

(A) The fund or account from which the loan was made has a need for the moneys.

(B) There is no longer a need for the moneys in the fund or account that received the loan.

(2) The Director of Finance shall notify, in writing, the Chairperson of the Joint Legislative Budget Committee within 30 days of ordering the repayment of any of these loans.

(c) On August 1 of each year, the Director of Finance shall report in writing to the Chairperson of the Joint Legislative Budget Committee the balances of these loans as of the preceding June 30.

(d) On February 1 of each year, the Director of Finance shall provide a report on General Fund obligations to the Chairperson of the Joint Legislative Budget Committee and to the chairpersons of the fiscal committees of the Assembly and the Senate. The report shall include both of the following:

(1) An update of the annual August 1 report to the Chairperson of the Joint Legislative Budget Committee on the balances of outstanding loans, as reflected in the preceding Governor's Budget.

(2) A summary and list of loans to the General Fund or obligations for future payment of deferred or suspended expenditures or transfers to any special fund or account and the dates that the loans or obligations arc due.

SEC. 51. Section 16351 of the Government Code is amended to read:

16351. (a) When any special fund in the treasury is exhausted, and there is money in the General Fund not required to meet any demand which has accrued or may accrue against it, the Controller shall so report to the Governor and the Treasurer. If the Governor and Treasurer find that the money is not needed in the General Fund, the Governor may order the Controller to transfer that money, or any part thereof, to the special fund in need.

(b) Money transferred pursuant to subdivision (a) shall be returned to the General Fund as soon as there is sufficient money in the special fund to return it.

(c) If sufficient money does not accumulate in the special fund within one year, the amount of money transferred or whatever portion of that amount is in the fund at that time shall be then returned, and the balance, if any, shall be returned thereafter in monthly installments as it accumulates. Any fund which fails to return the full amount of any transfer within one year from and after the transfer is ineligible to receive further transfers until it has returned the full amount.

SEC. 52. Section 16427 of the Government Code is amended to read:

16427. (a) For purposes of this article, "department" means the Department of Justice.

(b) The fund is under the control of the department. The department shall maintain accounting records pertaining to the fund, including

subsidiary records of individual litigation deposits and the disbursements from the fund.

(c) The department shall file a claim with the Controller to pay out money in the fund to whomever and at the time the department directs. However, if a sum of money in the fund was deposited pursuant to order or direction of the court, that sum shall be paid to whomever and at the time the court directs.

(d) The department shall notify the Department of Finance no later than 15 days after a transfer from the fund.

(e) Any residue remaining in a deposit account after satisfaction of all court-directed claims, or payment of departmental expenditures for that account shall be transferred no later than July 1 of each fiscal year to the General Fund.

(f) The department shall prepare and submit to the chairperson of the Joint Legislative Budget Committee, the chairpersons of the fiscal committees of the Senate and the Assembly, and the Director of Finance, quarterly reports concerning the activity of the fund that detail the number of deposits received, the receipt of interest income, disbursements to claimants, and what amount, if any, was used for the litigation costs of the department.

SEC. 53. Section 23344 of the Government Code is amended to read:

23344. (a) The commission may borrow those moneys as may be necessary to meet its expenses until the costs of the commission have been determined pursuant to Section 23343.

(b) As an alternative to the procedure authorized by subdivision (a), the Controller, upon appropriation by the Legislature from the General Fund, shall loan those moneys as the commission shall determine necessary to meet its expenses until the costs have been determined pursuant to Section 23343. The loan shall be at an interest rate equal to that of the Pooled Money Investment Fund at the time the loan is made.

(c) Loans made pursuant to this section may not exceed a total of four hundred thousand dollars ($400,000) for each commission, and shall be repaid within one year of the date on which the issue of county formation was voted on by the people.

(d) Any repayments on loans made pursuant to this section, including interest, received by the Controller shall be deposited in the General Fund.

(e) If the loans made pursuant to this section are not repaid, the Controller is authorized to reduce the moneys allocated to the county to which the loan was made by an amount equal to the amount that is owed to the state. This reduction shall be made from the subventions made pursuant to Sections 16100 and 16120.

SEC. 54. Section 27297.5 of the Government Code is amended to read:

27297.5. (a) Upon recordation of an abstract of judgment or other document creating an involuntary lien affecting the title to real property, unless the county recorder has received from the judgment creditor proof of service pursuant to subdivision (b) of a copy of the document being recorded, the county recorder may, whenever the recorded document evidencing such lien contains the address of the person or persons against whom the involuntary lien is recorded or the address of the judgment debtor's attorney of record, within 10 days notify the person or persons or attorney of record by mail of the recordation.

(b) As an alternative to notice by the recorder, the judgment creditor or lienholder may serve upon the person or persons against whom the abstract of judgment or document creating an involuntary lien is to be recorded, a copy thereof in one of the following ways:

(1) By personal delivery. Proof of service pursuant to this paragraph shall be shown by the affidavit of the person making the service, showing the time, place, and manner of service, the name and address of the person served, and any other facts necessary to show that service was made in accordance with this paragraph. If there is no address for a person to be served known to the judgment creditor or lienholder, he or she shall append to the abstract of judgment or involuntary lien an affidavit to that effect.

(2) By leaving it at the person's residence or place of business in the care of some person in charge. Proof of service pursuant to this paragraph shall be shown by the affidavit of the person making the service, showing the time, place, and manner of service, the name and address of the person served, together with the title or capacity of the person accepting service, and any other facts necessary to show that service was made in accordance with this paragraph.

(3) By registered or certified mail, postage prepaid, addressed to the person's residence or place of business. This service is complete at the time of mailing. Proof of service pursuant to this paragraph shall be shown by an affidavit setting forth the fact of service, the name and residence or business address of the person making this service, showing that he or she is a resident of, or employed in, the county where the mailing occurs, the fact that he or she is over the age of 18 years, the date and place of deposit in the mail, the name and address of the person served as shown on the envelope, and the fact that the envelope was sealed and deposited in the mail, with the postage thereon fully prepaid, and sent by registered or certified mail.

(c) The judgment creditor may add the actual cost of service pursuant to subdivision (b) to the judgment or involuntary lien. The costs shall not

exceed the cost had the abstract of judgment or involuntary lien been recorded pursuant to subdivision (a).

(d) As used in this section, "involuntary lien" means a lien that the person or persons against whom the lien is recorded has not executed or has not consented to by contract.

(e) This section shall not apply to the recordation of any documents relating to an involuntary lien in favor of the federal government pursuant to federal law or statute or to the recordation of any state tax lien against real property.

(f) The failure of the county recorder or a judgment creditor or lienholder to notify the person or persons against whom an abstract of judgment or involuntary lien is recorded as authorized by this section shall not affect the constructive notice otherwise imparted by recordation, nor shall it affect the force, effect, or priority otherwise accorded the lien.

(g) In the event that the notice is returned to the recorder by the postal service as undeliverable, the recorder is not required to retain the returned notice.

(h) In recognition of the state and local interests served by the action made optional in subdivision (a), the Legislature encourages local agencies to continue taking the action formerly mandated by this section. However, nothing in this subdivision may be construed to impose any liability on a local agency that does not continue to take the formerly mandated action.

SEC. 54.5. Section 29550 of the Government Code is amended to read:

29550. (a) (1) Notwithstanding any other provision of law, a county may impose a fee upon a city, special district, school district, community college district, college, or university for reimbursement of county expenses incurred with respect to the booking or other processing of persons arrested by an employee of that city, special district, school district, community college district, college, or university, where the arrested persons are brought to the county jail for booking or detention. The fee imposed by a county pursuant to this section shall not exceed the actual administrative costs, including applicable overhead costs as permitted by federal Circular **A-87** standards, as defined in subdivision (d), incurred in booking or otherwise processing arrested persons. For the 2005–06 fiscal year and each fiscal year thereafter, the fee imposed by a county pursuant to this subdivision shall not exceed one-half of the actual administrative costs, including applicable overhead costs as permitted by federal Circular A-87 standards, as defined in subdivision (d), incurred in booking or otherwise processing arrested persons. **A** county may submit an invoice to a city, special district, school district,

community college district, college, or university for these expenses incurred by the county on and after July 1, 1990. Counties shall fully disclose the costs allocated as federal Circular A-87 overhead.

(2) Any increase in a fee charged pursuant to this section shall be adopted by a county prior to the beginning of its fiscal year and may be adopted only after the county has provided each city, special district, school district, community college district, college, or university 45 days written notice of a public meeting held pursuant to Section 54952.2 on the fee increase and the county has conducted the public meeting.

(3) Any county that imposes a fee pursuant to this section shall negotiate a reduced fee with any city, special district, school district, community college district, college, or university within the county for any services that are performed by the arresting agency in the processing of arrestees that do not have to be duplicated by the county,

(4) This subdivision shall not apply to counties that are under a contractual agreement with a city, special district, school district, community college district, college, or university within the county that is subject to the fee.

(b) The exemption of a local agency from the payment of a fee pursuant to this subdivision does not exempt the person arrested from the payment of fees for booking or other processing.

(1) Notwithstanding subdivision (a), a city, special district, school district, community college district, college, or university shall not be charged fees for arrests on any bench warrant for failure to appear in court, nor on any arrest warrant issued in connection with a crime not committed within the entity's jurisdiction.

(2) Notwithstanding subdivision (a), a city, special district, school district, community college district, college, or university shall not be charged fees for a person who is ordered by a court to be remanded to the county jail except that a county may charge a fee to recover those direct costs for those functions required to book a person pursuant to subdivision (g) of Section 853.6 of the Penal Code.

(3) Notwithstanding subdivision (a), a city, special district, school district, community college district, college, or university shall not be charged fees for arrests made pursuant to arrest warrants originating outside of its jurisdiction.

(4) Notwithstanding subdivision (a), no fees shall be charged *to* a city, special district, school district, community college district, college, or university on parole violation arrests or probation-ordered returns to custody, unless a new charge has been filed for a crime committed in the jurisdiction of the arresting city, district, college, or university.

(5) An agency making a mutual aid request shall pay fees in accordance with subdivision (a) that result from arrests made in response

to the mutual aid request except that in the event the Governor declares a state of emergency, no agency shall be charged fees for any arrest made during any riot, disturbance, or event that is subject to the declaration.

(6) Notwithstanding subdivision (a), no fees shall be charged to a city, special district, school district, community college district, college, or university for the arrest of a prisoner who has escaped from a county, state, or federal detention or corrections facility.

(7) Notwithstanding subdivision (a), no fees shall be charged to a city, special district, school district, community college district, college, or university for arrestees held in temporary detention at a court facility for purposes of arraignment when the arrestee has been previously booked at an entity detention facility.

(8) Notwithstanding subdivision (a), no fees shall be charged to a city, special district, school district, community college district, college, or university as the result of an arrest made by its officer assigned to a formal multiagency task force in which the county is a participant. For the purposes of this section, "formal task force" means a task force that has been established by written agreement of the participating agencies.

(9) In those counties where the cities and the county participate in a consolidated booking program and where prior to arraignment an arrestee is transferred from a city detention facility to a county detention facility, the city shall not be charged for those tasks listed in subdivision (d) that are a part of the consolidated booking program which were completed by the city prior to delivering the arrestee to the county detention facility. However, the county may charge the actual administrative costs for those additional tasks listed in subdivision (d) that are performed in order to receive the arrestee into the county detention facility. For the 2005-06 fiscal year and each fiscal year thereafter, the county may charge up to one-half of the actual administrative costs for those additional tasks listed in subdivision (d) that are performed in order to receive the arrestee into the county detention facility.

(c) Any county whose officer or agent arrests a person is entitled to recover from the arrested person a criminal justice administration fee for administrative costs it incurs in conjunction with the arrest if the person is convicted of any criminal offense related to the arrest, whether or not it is the offense for which the person was originally booked. The fee which the county is entitled to recover pursuant to this subdivision shall not exceed the actual administrative costs, including applicable overhead costs incurred in booking or otherwise processing arrested persons.

(d) When the court has been notified in a manner specified by the court that a criminal justice administration fee is due the agency:

(1) **A** judgment of conviction may impose an order for payment of the amount of the criminal justice administration fee by the convicted person, and execution may be issued on the order in the same manner as a judgment in a civil action, but shall not be enforceable by contempt.

(2) The court shall, as a condition of probation, order the convicted person, based on his or her ability to pay, to reimburse the county for the criminal justice administration fee, including applicable overhead costs.

(e) As used in this section, "actual administrative costs" include only those costs for functions that are performed in order to receive an arrestee into a county detention facility. Operating expenses of the county jail facility including capital costs and those costs involved in the housing, feeding, and care of inmates shall not be included in calculating "actual administrative costs.'' "Actual administrative costs" may include the cost of notifying any local agency, special district, school district, community college district, college or university of any change in the fee charged by a county pursuant to this section. "Actual administrative costs" may include any one or more of the following as related to receiving an arrestee into the county detention facility:

(1) The searching, wristbanding, bathing, clothing, fingerprinting, photographing, and medical and mental screening of an arrestee.

(2) Document preparation, retrieval, updating, filing, and court scheduling related to receiving an arrestee into the detention facility.

(3) Warrant service, processing, and detainer.

(4) Inventory of an arrestee's money and creation of cash accounts.

(5) Inventory and storage of an arrestee's property.

(6) Inventory, laundry, and storage of an arrestee's clothing.

(7) The classification of an arrestee.

(8) The direct costs of automated services utilized in paragraphs (1) to (7), inclusive.

(9) Unit management and supervision of the detention function as related to paragraphs (1) to (8), inclusive.

(f) An administrative screening fee of twenty-five dollars ($25) shall be collected from each person arrested and released on his or her own recognizance upon conviction of any criminal offense related to the arrest other than an infraction. **A** citation processing fee in the amount of ten dollars ($10) shall be collected from each person cited and released by any peace officer in the field or at a jail facility upon conviction of any criminal offense, other than an infraction, related to the criminal offense cited in the notice to appear. However, the court may determine a lesser fee than otherwise provided in this subdivision upon a showing that the defendant is unable to pay the full amount. All fees collected pursuant to this subdivision shall be transmitted by the county auditor monthly to the Controller for deposit in the General Fund. This subdivision

applies only to convictions occurring on or after the effective date of the act adding this subdivision and prior to June 30, 1996.

SEC. 55. Section 29550.4 of the Government Code is amended to read:

29550.4. (a) (1) Notwithstanding Section 13340, the sum of up to fifty million dollars ($50,000,000) is hereby continuously appropriated annually from the General Fund to the Controller commencing with the 1999–2000 fiscal year for allocation to cities and qualified special districts for reimbursement for actual costs incurred by cities and qualified special districts in the payment of booking and processing fees pursuant to this article. For the 1999–2000 fiscal year, this appropriation shall be allocated to cities and qualified special districts for reimbursement for actual costs incurred by them during the period July 1, 1997, to July 1, 1998. If the actual costs incurred by cities and qualified special districts during the period of July 1, 1997, to July 1, 1998, in the payment to counties of booking and processing fees is greater than fifty million dollars ($50,000,000), then the Controller shall prorate the reimbursement to each city and qualified special district accordingly.

(2) For the 2004–05 fiscal year, no county shall assess a booking or processing fee pursuant to this article in excess of the fee in place on January 1, 2004.

(b) Not later than December 1, 1999, the Controller shall allocate the funds appropriated pursuant to subdivision (a) to all qualified cities and qualified special districts and shall certify to the Director of Finance the actual amount of money allocated to cities and qualified special districts for the payment of booking and processing fees pursuant to subdivision (a).

(c) Notwithstanding any other provision of this article, any city that pays booking and processing fees to another city is eligible for reimbursement pursuant to this section on the same basis as a city that pays booking and processing fees to a county. The amount of reimbursement for a city shall be based on the processing fees charged by the county in which that city is located. This subdivision shall apply to reimbursements beginning in the 2000–01 fiscal year based on costs incurred in the 1997–98 fiscal year.

(d) Any city or qualified special district that applies for reimbursement pursuant to this section shall comply with all requests made by the Controller. Any city or qualified special district that contracts with a county for the payment of those fees shall be ineligible for reimbursement pursuant to this section. A city that has entered into a memorandum of understanding with its county effective May 17, 1994, which agreement allows for the payment of prepaid annual rent to

satisfy the city's booking fee obligation, shall be eligible to receive reimbursement pursuant to this section.

(e) Any qualified city that did not apply for reimbursement pursuant to this section at the time required to receive funds allocated by the Controller not later than December 1, 1999, in the 1999–2000 fiscal year may apply for that reimbursement by October 1, 2000. Any qualified special district may apply to the Controller for reimbursement pursuant to this section for the 1999–2000 fiscal year by October 1, 2000.

(f) For the purposes of this section, "qualified special district" means both of the following:

(1) **A** district that supplants the law enforcement functions of the county within the jurisdiction of that district.

(2) A district that employs peace officers, as described in Section 830.1 of the Penal Code, who are certified as meeting those standards and requirements established pursuant to Article 2 (commencing with Section 13510) of Chapter 1 of Title 4 of Part 4 of the Penal Code.

(g) This section shall become inoperative on July 1,2005, and, as of January 1, 2006, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 55.5. Section 30070 of the Government Code is amended to read:

30070. (a) The sum of eighteen million five hundred thousand dollars ($18,500,000) is hereby annually appropriated from the General Fund to the Controller for allocation to county sheriffs' departments to enhance law enforcement efforts in the counties specified in paragraphs (1) to (37), inclusive, according to the following schedule:

(1) Alpine County	*500,000*
(2) Amador County	*500,000*
(3) Butte County	500,000
(4) Calaveras County	*500,000*
(5) Colusa County	*500,000*
(6) Del Norte County	*500,000*
(7) El Dorado County	*500,000*
(8) Glenn County	*500,000*
(9) Humboldt County	*500,000*
(10) Imperial County	*500,000*
(11) Inyo County	*500,000*
(12) Kings County	*500,000*
(13) Lake County	*500,000*
(14) Lassen County	*500,000*

(15) Madera County	*500,000*
(16) Marin County	*500,000*
(17) Mariposa County	*500,000*
(18) Mendocino County	*500,000*
(19) Merced County	500,000
(20) Modoc County	500,000
(21) Mono County	500,000
(22) Napa County	500,000
(23) Nevada County	500,000
(24) Placer County	500,000
(25) Plumas County	500,000
(26) San Benito County	500,000
(27) San Luis Obispo County	*500,000*
(28) Santa Cruz County	*500,000*
(29) Shasta County	*500,000*
(30) Sierra County	*500,000*
(31) Siskiyou County	*500,000*
(32) Sutter County	*500,000*
(33) Tehama County	500,000
(34) Trinity County	500,000
(35) Tuolumne County	500,000
(36) Yolo County	500,000
(37) Yuba County	500,000

(b) Funds allocated pursuant to this section shall be used to supplement rather than supplant existing law enforcement resources.

(c) The appropriation and allocation of funds to county sheriffs' departments under this section shall be suspended for the 2003–04 fiscal year.

SEC. 56. Section 63021.5 of the Government Code is amended to read:

63021.5. (a) The bank shall be governed and its corporate power exercised by a board of directors that shall consist of the following persons:

(1) The Director of Finance or his or her designee.

(2) The Treasurer or his or her designee.

(3) The Secretary of Business, Transportation and Housing or his or her designee, who shall serve as chair of the board.

(4) An appointee of the Governor.

(5) The Secretary of State and Consumer Services Agency or his or her designee.

(b) Any designated director shall serve at the pleasure of the designating power.

(c) Three of the members shall constitute a quorum and the affirmative vote of three board members shall be necessary for any action to be taken by the board.

(d) **A** member of the board shall not participate in any bank action or attempt to influence any decision or recommendation by any employee of, or consultant to, the bank that involves a sponsor of which he or she is a representative or in which the member or a member of his or her immediate family has a personal financial interest within the meaning of Section 87100. For purposes of this section, "immediate family" means the spouse, children, and parents of the member.

(e) Except as provided in this subdivision, the members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties to the extent that reimbursement for these expenses is not otherwise provided or payable by another public agency, and shall receive one hundred dollars ($100) for each full day of attending meetings of the authority.

SEC. 57. Section 65583 of the Government Code is amended to read:

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:

(1) An analysis of population and employment trends and documentation of projections and a qualification of the locality's existing and projected housing needs for all income levels. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584.

(2) ***An*** analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and

an analysis of the relationship of zoning and public facilities and services to these sites.

(4) *An* analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels and for persons with disabilities as identified in the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities identified pursuant to paragraph (6).

(5) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(6) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter. The department shall adopt regulations to implement this paragraph, including parts of this paragraph determined by the department or any other state agency or a court to be a reimbursable state mandate. For any revision of a housing element required pursuant to Section 65588 that occurs subsequent to the adoption of those regulations, any actions undertaken by the locality beyond those specified in the regulations are at that locality's option and are not required by this section.

(7) At the option of local government, an analysis of opportunities for energy conservation with respect to residential development.

(8) *An* analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each dcvclopmcnt by project name and address, the type of governmental assistance received, the carlicst possible date of change from low-income use and the total number of elderly and noneldcrly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and docs not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement

the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) **(A)** Identify adequate sites which will be made available through appropriate zoning and development standards and with services and facilities, including sewage collection and treatment, domestic water supply, and septic tanks and wells, needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing in order to meet the community's housing goals as identified in subdivision (b).

(i) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low and low-income households.

(ii) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(B) For purposes of this paragraph, the phrase "use by right" shall mean the use does not require a conditional use permit, except when the proposed project is a mixed-use project involving both commercial or industrial uses and residential uses. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

(C) The requirements of this subdivision regarding identification of sites for farmworker housing shall apply commencing with the next

revision of housing elcmcnts required by Section 65588 following the enactment of this subparagraph.

(2) Assist in the development of adequate housing to meet the needs of low- and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, or provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) **(A)** Preserve for lower income households the assisted housing developments identified pursuant to paragraph (8) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (8) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(B) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) The analysis and program for preserving assisted housing developments required by the amendments to this section enacted by the Statutes of 1989 shall be adopted as an amendment to the housing element by July 1, 1992.

(e) Failure of the department to review and report its findings pursuant to Section 65585 to the local government between July 1, 1992, and the next periodic review and revision required by Section 65588, concerning the housing element amendment required by the amendments to this section by the Statutes of 1989, shall not be used as a basis for allocation or denial of any housing assistance administered

pursuant to Part 2 (commencing with Section 50400) of Division 31 of the Health and Safety Code.

SEC. 58. Section 65584.1 is added to the Government Code, to read:

65584.1. Councils of government may charge a fee to local governments to cover the projected reasonable, actual costs of the council in distributing regional housing needs pursuant to this article. Any fee shall not exceed the estimated amount required to implement its obligations under this article. A city, county, or city and county may charge a fee, including, but not limited to, a fee pursuant to Section 65104 to support the work of the planning agency pursuant to this article, and to reimburse it for the cost of any fee charged by the council of government to cover the council's actual costs in distributing regional housing needs. The legislative body of the city, county, or city and county shall impose any fee pursuant to Section 66016. This section is declaratory of existing law.

SEC. 59. Section 65584.2 is added to the Government Code, to read:

65584.2. A local government may, but is not required to, conduct a review or appeal regarding allocation data provided by the department or the council of governments pertaining the locality's share of the regional housing need or the submittal of data or information for a proposed allocation, as permitted by this article.

SEC. 60. Section 68511.8 is added to the Government Code, to read:

68511.8. (a) On or before December 1 of each year until project completion, the Judicial Council shall provide an annual status report to the chairperson of the budget committee in each house of the Legislature and the chairperson of the Joint Legislative Budget Committee with regard to the California Case Management System and Court Accounting and Reporting System. The report shall include, but is not limited to, all of the following:

(1) Project accomplishments to date.

(2) Project activities underway.

(3) Proposed activities.

(4) Annual revenues and expenditures to date in support of these projects, which shall include all costs for the Administrative Office of the Courts and incremental court personnel, contracts, and hardware and software.

(b) On or before December 1 of each year until project completion, the Administrative Office of the Courts shall provide, on an annual basis to the chairperson of the budget committee in each house of the Legislature and the chairperson of the Joint Legislative Budget Committee, copies of any independent project oversight report for the California Case Management System. The independent project oversight report shall include, but is not limited to, a review and an

assessment of project activities, identification of deficiencies, and recommendations to the Administrative Office of the Courts on how to address those deficiencies. The Administrative Office of the Courts shall include in the annual submission descriptions on actions taken to address identified deficiencies.

(c) Within 18 months of fully implementing the California Case Management System and the Court Accounting and Reporting System projects, the Administrative Office of the Courts shall provide to the chairperson of the budget committee in each house of the Legislature and the chairperson of the Joint Legislative Budget Committee, a postimplementation evaluation report for each project. The report shall include, but is not limited to, a summary of the project background, project results, and an assessment of the attainment of project objectives.

SEC. 61. Section 69926.5 of the Government Code is amended to read:

69926.5. (a) To ensure and maintain adequate funding for court security, a surcharge of twenty dollars ($20) is added to the total fee collected pursuant to Section 26820.4, 26826, 26827, 72055, or 72056.

(b) In addition to the surcharge in subdivision (a), a surcharge of twenty dollars ($20) is added to the total filing fee collected in a case pursuant to Section 26820.4, 26826, or 26827, a surcharge of twenty dollars ($20) is added to the total filing fee collected in a limited civil case pursuant to Section 72055 or 72056 where the amount demanded, excluding attorney's fees and costs, is in excess of ten thousand dollars ($10,000), and a surcharge of ten dollars ($10) is added to the total filing fee collected in a limited civil case pursuant to Section 72055 or 72056 where the amount demanded, excluding attorney's fees and costs, is ten thousand dollars ($10,000), or less. The surcharges in this subdivision shall be collected in cases filed from January 1, 2004, to June 30, 2005, inclusive. The purpose of this surcharge is to stabilize funding for court security at the current level and is not intended to increase the funding available for court security in the 2004–05 fiscal year. This subdivision shall become inoperative on July 1, 2005, or upon the enactment of a uniform filing fee, whichever is earlier.

(c) Notwithstanding any other provision of law, the surcharges collected pursuant to subdivisions (a) and (b) shall all be deposited in a special account in the county treasury, and transmitted therefrom monthly to the Controller for deposit in the Trial Court Trust Fund.

SEC. 62. Section 69957 of the Government Code is amended to read:

69957. Whenever an official reporter or an official reporter pro tempore is unavailable to report an action or proceeding in a court, subject to the availability of approved equipment and equipment

monitors, the court may order that, in a limited civil case, or a misdemeanor or infraction case, the action or proceeding be electronically recorded, including all the testimony, the objections made, the ruling of the court, the exceptions taken, all arraignments, pleas, and sentences of defendants in criminal cases, the arguments of the attorneys to the jury, and all statements and remarks made and oral instructions given by the judge. A transcript derived from an electronic recording may be utilized whenever a transcript of court proceedings is required. The electronic recording device and appurtenant equipment shall be of a type approved by the Judicial Council for courtroom use and shall only be purchased for use as provided by this section. A court shall not expend funds for electronic recording technology or equipment to make an unofficial record of an action or proceeding or to use that technology or equipment to make the official record of an action or proceeding in circumstances not authorized by this section.

SEC. 63. Section 69958 is added to the Government Code, to read:

69958. Each superior court shall report to the Judicial Council on or before October 1, 2004, and semiannually thereafter, and the Judicial Council shall report to the Legislature on or before December 31,2004, and semiannually thereafter, regarding all purchases and leases of electronic recording equipment that will be used to record superior court proceedings, specifying all of the following:

(a) The Superior Court in which the equipment will be used.

(b) The types of trial court proceedings in which the equipment will be used.

(c) The cost of purchasing, leasing, or upgrading the cquipment.

(d) The type of equipment purchased or leased.

SEC. 64. Section 71601 of the Government Code is amended to read:

71601. For purposes of this chapter, the following definitions shall apply:

(a) "Appointmcnt" means the offer to and acceptance by a person of a position in the trial court in accordance with this chapter and the trial court's personnel policies, procedures, and plans.

(b) "Employee organization" means either of the following:

(1) Any organization that includes trial court employees and has as one of its primary purposes representing those employees in their relations with that trial court.

(2) Any organization that seeks to represent trial court employees in their relations with that trial court.

(c) "Hiring" means appointment as defined in subdivision (a).

(d) "Mediation" means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours, and other terms and

conditions of employment between representatives of the trial court and the recognized employee organization or recognized employee organizations through interpretation, suggestion, and advice.

(e) "Meet and confer in good faith" means that a trial court or representatives as it may designate, and representatives of recognized employee organizations, shall have the mutual obligation personally to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation. The process should include adequate time for the resolution of impasses where specific procedures for resolution are contained in this chapter or in a local rule, or when the procedures are utilized by mutual consent.

(f) "Personnel rules," "personnel policies, procedures, and plans," and "rules and regulations" mean policies, procedures, plans, rules, or regulations adopted by a trial court or its designee pertaining to conditions of employment of trial court employees, subject to meet and confer in good faith.

(g) "Promotion" means promotion within the trial court as defined in the trial court's personnel policies, procedures, and plans, subject to meet and confer in good faith.

(h) "Recognized employee organization" means an employee organization that has been formally acknowledged to represent trial court employees by the county under Sections 3500 to 3510, inclusive, prior to the implementation date of this chapter, or by the trial court under Rules 2201 to 2210, inclusive, of the California Rules of Court, as those rules read on April 23, 1997, Sections 70210 to 70219, inclusive, or Article 3 (commencing with Section 71630) of this chapter.

(i) "Subordinate judicial officer" means an officer appointed to perform subordinate judicial duties as authorized by Section 22 of Article VI of the California Constitution, including, but not limited to, a court commissioner, probate commissioner, referee, traffic referee, juvenile referee, and judge pro tempore.

(j) "Transfer" means transfer within the trial court as defined in the trial court's personnel policies, procedures, and plans, subject to meet and confer in good faith.

(k) "Trial court" means a superior court or a municipal court.

(l) "Trial court employee" means a person who is both of the following:

(1) Paid from the trial court's budget, regardless of the funding source. For the purpose of this paragraph, "trial court's budget" means funds from which the presiding judge of a trial court, or his or her designee, has authority to control, authorize, and direct expenditures,

including, but not limited to, local revenues, all grant funds, and trial court operations funds.

(2) Subject to the trial court's right to control the manner and means of his or her work because of the trial court's authority to hire, supervise, discipline, and terminate employment. For purposes of this paragraph only, the "trial court" includes the judges of a trial court or their appointees who are vested with or delegated the authority to hue, supervise, discipline, and terminate.

(m) A person is a "trial court employee" if and only if both paragraphs (1) and (2) of subdivision *(I)* are true irrespective of job classification or whether the functions performed by that person are identified in Rule 810 of the California Rules of Court. The phrase "trial court employee" includes those subordinate judicial officers who satisfy paragraphs (1) and (2) of subdivision (*I*). The phrase "trial court employee" does not include temporary employees hired through agencies, jurors, individuals hired by the trial court pursuant to an independent contractor agreement, individuals for whom the county or trial court reports income to the Internal Revenue Service on a Form 1099 and does not withhold employment taxes, sheriffs, and judges whether elected or appointed. Any temporary employee, whether hired through an agency or not, shall not be employed in the trial court for a period exceeding 180 calendar days, except that for court reporters in a county of the first class, a trial court and a recognized employee organization may provide otherwise by mutual agreement in a memorandum of understanding or other agreement.

SEC. 65. Section 71630 of the Government Code is amended to read:

71630. (a) It is the purpose of this article to promote full communication between trial courts and their employees by providing a reasonable method for resolving disputes regarding wages, hours, and other terms and conditions of employment between trial courts and recognized employee organizations. It is also the purpose of this article to promote the improvement of personnel management and employer-employee relations within the trial courts in the state by providing a uniform basis for recognizing the right of trial court employees to join organizations of their own choice and to be represented by those organizations in their employment relations with trial courts. It is also the purpose of this article to extend to trial court employees the right, and to require trial courts, to meet and confer in good faith over matters within the scope of representation, consistent with the procedures set forth in this article. This article is not intended to require changes in existing representation units, memoranda of

agrcemcnt or understanding, or court rules, except as provided in this article.

(b) The Legislature finds and declares that the duties and responsibilities of trial court representatives under this article are substantially similar to the duties and responsibilities required under existing collective bargaining enforcement procedures and therefore the costs incurred by the trial court representatives in performing those duties and responsibilities under this article are not reimbursable as state-mandated costs.

SEC. 66. Section 71636 of the Government Code is amended to read:

71636. (a) **A** trial court may adopt reasonable rules and regulations, after consultation in good faith with representatives of a recognized employee organization or organizations, for the administration of employer-employee relations under this article. These rules and regulations may include provisions for:

(1) Verifying that an organization does in fact represent employees of the trial court.

(2) Verifying the official status of employee organization officers and representatives.

(3) Recognition of employee organizations.

(4) Exclusive recognition of employee organizations formally recognized pursuant to a vote of the employees of the trial court or an appropriate unit thereof, subject to the right of an employee to represent himself or herself as provided in Section 71631.

(5) Additional procedures for the resolution of disputes involving wages, hours, and other terms and conditions of employment.

(6) Access of employee organization officers and representatives to work locations.

(7) Use of official bulletin boards and other means of communication by employee organizations.

(8) Furnishing nonconfidential information pertaining to employment relations to employee organizations.

(9) Any other matters as are necessary to carry out the purposes of this article.

(b) Exclusive recognition of employee organizations formally recognized as majority representatives pursuant to a vote of the employees may be revoked by a majority vote of the employees only after a period of not less than 12 months following the date of recognition.

(c) No trial court shall unreasonably withhold recognition of employee organizations. **A** trial court may not offer to provide employees benefits of any kind for the purpose of inducing those

employees to decertify or withdraw support from a recognized employee organization.

(d) Pursuant to the obligation to meet and confer in good faith, the trial court shall establish procedures to determine the appropriateness of any bargaining unit of court employees.

(e) Trial court employees and employee organizations shall be able to challenge a rule or regulation of a trial court as a violation of this chapter.

SEC. 67. Section 71639.1 of the Government Code is repealed.

SEC. 68. Section 71639.1 is added to the Government Code, to read:

71639.1. (a) As used in this article, "board" means the Public Employment Relations Board established pursuant to Section 3541.

(b) The powers and duties of the board described in Section 3541.3 shall also apply, as appropriate, to this article and shall include the authority as set forth in subdivisions (c) and (d). Included among the appropriate powers of the board are the power to order elections, to conduct any election the board orders, and to adopt rules to apply in areas where a trial court has no rule.

(c) **A** complaint alleging any violation of this article or of any rules and regulations adopted by a trial court pursuant to Section 71636 shall be processed as an unfair practice charge by the board. The initial determination as to whether the charge of unfair practice is justified and, if so, the appropriate remedy necessary to effectuate the purposes of this article, shall be a matter within the exclusive jurisdiction of the board. The board shall apply and interpret unfair labor practices consistent with existing judicial interpretations of this article and Section 71639.3. The board shall not issue a complaint in respect of any charge based upon an alleged unfair practice occurring more than six months prior to the filing of the charge, except that if the rules and regulations adopted by a trial court require exhaustion of a remedy prior to filing an unfair practice charge or the charging party chooses to exhaust a trial court's remedy prior to filing an unfair practice charge, the six-month limitation set forth in this subsection shall be tolled during such reasonable amount of time it takes the charging party to exhaust the remedy, but nothing herein shall require a charging party to exhaust a remedy when that remedy would he futile.

(d) The board shall enforce and apply rules adopted by a trial court concerning unit determinations, representation, recognition, and elections.

(e) This section does not apply to employees designated as management employees under Section 71637.1.

(f) The board shall not find it an unfair practice for an employee organization to violate a rule or regulation adopted by a trial court if that rule or regulation is itself in violation of this article.

SEC. 69. Section 71639.3 of the Government Code is amended to read:

71639.3. Trial courts and trial court employees are not covered by Chapter 10 (commencing with Section 3500) of Division 4 of Title 1, or any subsequent changes to these sections except as provided in this article. However, where the language of this article is the same or substantially the same as that contained in Chapter 10 (commencing with Section 3500) of Division 4 of Title 1, it shall be interpreted and applied in accordance with the judicial interpretations of the same language.

SEC. 70. Section 71639.4 is added to the Government Code, to read:

71639.4. (a) Any charging party, respondent, or intervenor aggrieved by a final decision or order of the board in an unfair practice case, except a decision of the board not to issue a complaint in such a case, and any party to a final decision or order of the board in a unit determination, representation, recognition, or election matter that is not brought as an unfair practice case, may petition for a writ of extraordinary relief from that decision or order. **A** board order directing an election may not be stayed pending judicial review.

(b) **A** petition for a writ of extraordinary relief shall be filed in the district court of appeal having jurisdiction over the county where the events giving rise to the decision or order occurred. The petition shall be filed within 30 days from the date of the issuance of the board's final decision or order, or order denying reconsideration, as applicable. Upon the filing of the petition, the court shall cause notice to be served upon the board and thereafter shall have jurisdiction of the proceeding. The board shall file in the court the record of the proceeding, certified by the board, within 10 days after the clerk's notice unless that time is extended by the court for good cause shown. The court shall have jurisdiction to grant any temporary relief or restraining order it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as modified, or setting aside in whole or in part the decision or order of the board. The findings of the board with respect to questions of fact, including ultimate facts, if supported by substantial evidence on the record considered as a whole, shall be conclusive. Title 1 (commencing with Section 1067) of Part **3** of the Code of Civil Procedure relating to writs shall, except where specifically superseded by this section, apply to proceedings pursuant to this section.

(c) If the time to petition for extraordinary relief from a board decision or order has expired, the board may seek enforcement of any final

decision or order in a district court of appeal or superior court having jurisdiction over the county where the events giving rise to the decision or order occurred. The board shall respond within 10 days to any inquiry from a party to the action as to why the board has not sought court enforcement of the final decision or order. If the response does not indicate that there has been compliance with the board's final decision or order, the board shall seek enforcement of the final decision or order upon the request of the party. The board shall file in the court the record of the proceeding, certified by the board, and appropriate evidence disclosing the failure to comply with the decision or order. If, after hearing, the court determines that the order was issued pursuant to the procedures established by the board and that the person or entity refuses to comply with the order, the court shall enforce the order by writ of mandamus or other proper process. The court may not review the merits of the order.

SEC. 71. Section 71639.5 is added to the Government Code, to read:

71639.5. (a) Any written agreements reached through negotiations held pursuant to this article are binding upon the parties, upon adoption under Section 71634.3, and, notwithstanding Sections 1085 and 1103 of the Code of Civil Procedure requiring the issuance of a writ to an inferior tribunal, any of those agreements may be enforced by petitioning the superior court for relief pursuant to Section 1085 or 1103 of the Code of Civil Procedure.

(b) Written agreements reached through negotiations held pursuant to this article that contain provisions requiring the arbitration of controversies arising out of the agreement shall be subject to enforcement under Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure.

(c) The Judicial Council shall adopt rules of court that shall provide a mechanism for the establishment of a panel of court of appeal justices who shall be qualified to hear petitions under Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure, and writ applications under Sections 1085 and 1103 of the Code of Civil Procedure, and as specified in those rules, from which a single justice shall be assigned to hear the matter in the superior court. The rules of court shall provide that these matters shall be heard in the superior court, and to the extent permitted by law, shall provide that any justice assigned to hear the matter in the superior court shall not be from the court of appeal district in which the action is filed, and shall further provide that appeals in such matters shall be heard in the court of appeal district where the matter was filed.

SEC. 72. Section 71823 of the Government Code is amended to read:

71823. (a) On or before April 1,2003, the regional court interpreter employment relations committee shall adopt reasonable rules and regulations for the administration of employer-employee relations under this chapter, which shall be binding on the trial courts within the region. These rules shall include provisions for all of the following:

(1) Verification that an organization represents employees of the trial courts within the applicable region.

(2) Verification of the official status of employee organization officers and representatives.

(3) Registration of employee organizations and recognition of these organizations as representatives of interpreters employed by the trial courts in the region.

(4) Establishment of a single, regional bargaining unit of all court interpreters employed by the trial courts in the region, including court interpreters pro tempore.

(5) Recognition of an employee organization as the exclusive representative of all court interpreters employed by the trial courts in the region, subject to the right of a court interpreter to represent himself or herself, as provided in Section 71813, upon either of the following:

(A) Presentation of a petition or cards with the signatures of 50 percent plus one of the court interpreters employed by the trial courts in the region during the payroll period immediately prior to the presentation of the cards or petition, including court interpreters pro tempore, regardless of whether they have been appointed to interpret during that payroll period, if they have worked for the trial courts as independent contractors or employees for at least 15 days in the six months prior to the filing of the petition or cards with those signatures having been obtained within one year prior to presentation of the petition or cards. A signature shall be valid even if the interpreter was not yet an employee at the time the petition or card was signed if the interpreter had previously performed work for the trial courts as an independent contractor, provided that the signature was obtained no more than 90 days before the interpreter became an employee. The results of a request for recognition under this provision shall be certified within 10 days after presentation of the cards or petition.

(B) Receipt by the employee organization of 50 percent plus one of the votes cast at a secret ballot representation election conducted by mail. **A** representation election shall be held within 30 days after presentation of a 30-percent or greater showing of interest from employees eligible to vote in the representation election by means of a petition or cards supported by signatures obtained within one year prior to the presentation of the petitions or cards. A signature shall be valid even if the interpreter was not yet an employee at the time the petition or card

was signed if the interpreter had previously performed work for the trial courts as an independent contractor, provided that the signature was obtained no more than 90 days before the interpreter became an employee. All certified and registered interpreters employed by the trial courts in the payroll period immediately prior to the election, including court interpreters pro tempore, shall be eligible to vote in the election, regardless of whether they have been appointed to interpret during that payroll period, so long as they have worked for the trial courts as independent contractors or employees for at least 15 days in the six months prior to the filing of the petition or cards. A list of eligible voters shall be provided to the employee organization within 10 days after submission of the petition or cards. Certification of the results of a representation election shall occur within *30* days after the election is concluded.

(6) Procedures for the resolution of disputes involving wages, hours, and other terms and conditions of employment.

(7) Access of employee organization officers and representatives to work locations.

(8) Use of official bulletin boards and other means of communication by employee organizations.

(9) Furnishing nonconfidential information pertaining to employment relations to an employee organization.

(10) Revocation of recognition of an employee organization formally recognized as majority representative pursuant to a vote of the employees by a majority vote of the employees only after a period of not less than 12 months following the date of recognition. **A** vote shall be requested by a petition or cards signed by at least 30 percent of the employees within the bargaining unit, with those signatures having been obtained within one year prior to presentation of the petition or cards.

(11) Any other matters that are necessary to *carry* out the purposes of this chapter.

(b) If there is a recognized employee organization in the region, the regional court interpreter employment relations committee may amend the reasonable rules and regulations adopted pursuant to subdivision (a) by adopting reasonable rules and regulations, after meeting and conferring in good faith, for the administration of employer-employee relations under this chapter, which shall be binding on the trial courts within the region.

(c) Interpreters and recognized employee organizations shall be able to challenge a rule or regulation of the regional court interpreter employment relations committee or a trial court as a violation of this chapter.

SEC. *73.* Section 71825 of the Government Code is repealed.

SEC. 74. Section 71825 is added to the Government Code, to read:

71825. (a) As used in this section, "board" means the Public Employment Relations Board established pursuant to Section 3541.

(b) The powers and duties of the board described in Section 3541.3 shall also apply, as appropriate, to this chapter and shall include the authority as set forth in subdivisions (c) and (d). Included among the appropriate powers of the board are the power to order elections, to conduct any election the board orders, and to adopt rules to apply in areas where a regional court interpreter employment relations committee has no rule.

(c) A complaint alleging any violation of this chapter or of any rules and regulations adopted by a regional court interpreter employment relations committee pursuant to Section 71823 shall be processed as an unfair practice charge by the board. The initial determination as to whether the charge of unfair practice is justified and, if so, the appropriate remedy necessary to effectuate the purposes of this chapter, shall be a matter within the exclusivejurisdiction of the board. The board shall apply and interpret unfair labor practices consistent with existing judicial interpretations of this chapter and Section 71826(b). The board shall not issue a complaint in respect of any charge based upon an alleged unfair practice occurring more than six months prior to the filing of the charge, except that if the rules and regulations adopted by a regional court interpreter employment relations committee require exhaustion of a remedy prior to filing an unfair practice charge or the charging party chooses to exhaust a regional court interpreter employment relations committee's remedy prior to filing an unfair practice charge, the six-month limitation set forth in this subsection shall be tolled during such reasonable amount of time it takes the charging party to exhaust the remedy, but nothing herein shall require a charging party to exhaust a remedy when that remedy would be futile.

(d) The board shall enforce and apply rules adopted by a regional court interpreter employment relations committee concerning unit determinations, representation, recognition, and elections.

(e) This section does not apply to employees designated as management employees.

(f) The board shall not find it an unfair practice for an employee organization to violate a rule or regulation adopted by a regional court interpreter employment relations committee if that rule or regulation is itself in violation of this chapter.

SEC. 75. Section 71825.1 is added to the Government Code, to read:

71825.1. (a) Any charging party, respondent, or intervenor aggrieved by a final decision or order of the board in an unfair practice case, except a decision of the board not to issue a complaint in such a

case, and any party to a final decision or order of the board in a unit determination, representation, recognition, or election matter that is not brought as an unfair practice case, may petition for a writ of extraordinary relief from that decision or order. **A** board order directing an election may not be stayed pending judicial review.

(b) **A** petition for a writ of extraordinary relief shall be filed in the district court of appeal having jurisdiction over the county where the events giving rise to the decision or order occurred. The petition shall be filed within 30 days from the date of the issuance of the board's final decision or order, or order denying reconsideration, as applicable. Upon the filing of the petition, the court shall cause notice to be served upon the board and thereafter shall have jurisdiction of the proceeding. The board shall file in the court the record of the proceeding, certified by the board, within 10 days after the clerk's notice unless that time is extended by the court for good cause shown. The court shall have jurisdiction to grant any temporary relief or restraining order it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as modified, or setting aside in whole or in part the decision or order of the board. The findings of the board with respect to questions of fact, including ultimate facts, if supported by substantial evidence on the record considered as a whole, shall be conclusive. Title 1 (commencing with Section 1067) of Part *3* of the Code of Civil Procedure relating to writs shall, except where specifically superseded by this section, apply to proceedings pursuant to this section.

(c) If the time to petition for extraordinary relief from a board decision or order has expired, the board may seek enforcement of any final decision or order in a district court of appeal or superior court having jurisdiction over the county where the events giving rise to the decision or order occurred. The board shall respond within 10 days to any inquiry from a party to the action as to why the board has not sought court enforcement of the final decision or order. If the response does not indicate that there has been compliance with the board's final decision or order, the board shall seek enforcement of the final decision or order upon the request of the party. The board shall file in the court the record of the proceeding, certified by the board, and appropriate evidence disclosing the failure to comply with the decision or order. If, after hearing, the court determines that the order was issued pursuant to the procedures established by the board and that the person or entity refuses to comply with the order, the court shall enforce the order by writ of mandamus or other proper process. The court may not review the merits of the order.

SEC. 76. Section 71825.2 is added to the Government Code, to read:

71825.2. (a) Any written agreements reached through negotiations held pursuant to this article are binding upon the parties, upon adoption under Section 71819, and, notwithstanding Sections 1085 and 1103 of the Code of Civil Procedure requiring the issuance of a writ to an inferior tribunal, any of those agreements may be enforced by petitioning the superior court for relief pursuant to Section 1085 or 1103 of the Code of Civil Procedure.

(b) Written agreements reached through negotiations held pursuant to this article that contain provisions requiring the arbitration of controversies arising out of the agreement, shall be subject to enforcement under Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure.

(c) The Judicial Council shall adopt rules of court that shall provide a mechanism for the establishment of a panel of court of appeal justices who shall be qualified to hear petitions under Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure, and writ applications under Sections 1085 and 1103 of the Code of Civil Procedure, and as specified in those rules, from which a single justice shall be assigned to hear the matter in the superior court. The rules of court shall provide that these matters shall be heard in the superior court and, to the extent permitted by law, shall provide that any justice assigned to hear the matter in the superior court shall not be from the court of appeal district in which the action is filed, and shall further provide that appeals in those matters shall be heard in the court of appeal district where the matter was filed.

SEC. 77. Section 77202 of the Government Code is amended to read:

77202. (a) The Legislature shall make an annual appropriation to the Judicial Council for the general operations of the trial courts based on the request of the Judicial Council. The Judicial Council's trial court budget request, which shall be submitted to the Governor and the Legislature, shall meet the needs of all trial courts in a manner that ensures a predictable fiscal environment for labor negotiations in accordance with the Trial Court Employment Protection and Governance Act, that promotes equal access to the courts statewide, and that promotes court financial accountability. The annual budget request shall include the following components:

(1) In order to ensure that trial court funding is not eroded and that sufficient funding is provided to trial courts to be able to accommodate increased costs without degrading the quantity or quality of court services, a base funding adjustment for operating costs shall be included that is computed based upon the year-to-year percentage change in the annual state appropriations limit. For purposes of this adjustment,

operating costs include, but are not limited to, all expenses for court operations and court employee salaries and salary-driven benefits, but do not include the costs of compensation for judicial officers, subordinate judicial officers, or funding for the assigned judges program.

(2) Nondiscretionary costs necessitated by law or county government that exceed the annual state appropriations limit and other adjustments required to accommodate other operational and programmatic changes shall be separately identified and justified through the annual budget process.

(b) The Judicial Council shall allocate the appropriation to the trial courts in a manner that best ensures the ability of the courts to carry out their functions, promotes implementation of statewide policies, and promotes the immediate implementation of efficiencies and cost-saving measures in court operations, in order to guarantee access to justice to citizens of the state.

The Judicial Council shall ensure that its trial court budget request and the allocations made by it reward each trial court's implementation of efficiencies and cost-saving measures.

These efficiencies and cost-saving measures shall include, but not be limited to, the following:

(1) The sharing or merger of court support staff among trial courts across counties.

(2) The assignment of any type of case to a judge for all purposes commencing with the filing of the case and regardless of jurisdictional boundaries.

(3) The establishment of a separate calendar or division to hear a particular type of case.

(4) In rural counties, the use of all court facilities for hearings and trials of all types of cases and the acceptance of filing documents in any case.

(5) The use of alternative dispute resolution programs, such as arbitration.

(6) The development and use of automated accounting and case-processing systems.

(c) (1) The Judicial Council shall adopt policies and procedures governing practices and procedures for budgeting in the trial courts in a manner that best ensures the ability of the courts to carry out their functions and may delegate the adoption to the Administrative Director of the Courts. The Administrative Director of the Courts shall establish budget procedures and an annual schedule of budget development and management consistent with these rules.

(2) The Trial Court Policies and Procedures shall specify the process for a court to transfer existing funds between or among the budgeted program components to reflect changes in the court's planned operation or to correct technical errors. If the process requires a trial court to request approval of a specific transfer of existing funds, the Administrative Office of the Courts shall review the request to transfer funds and respond within 30 days of receipt of the request. The Administrative Office of the Courts shall respond to the request for approval or denial to the affected court, in writing, with copies provided to the Department of Finance, the Legislative Analyst Office, the Legislature's budget committees, and the court's affected labor organizations.

(3) The Judicial Council shall circulate for comment to all affected entities any amendments proposed to the Trial Court Policies and Procedures as they relate to budget monitoring and reporting. Final changes shall be adopted at a meeting of the Judicial Council.

SEC. 78. Section 13138 is added to the Health and Safety Code, to read:

13138. (a) For state agencies, departments, or programs that are charged for the costs of fire and life safety building code inspections rendered by the State Fire Marshal, the State Fire Marshal shall charge an amount sufficient to recover the costs incurred for the fire and life safety building code inspections.

(b) Upon the request of the State Fire Marshal, in the form prescribed by the Controller, the Controller shall transfer the amount of the charges for services rendered from the agency's appropriation to the appropriation for the support of the State Fire Marshal's office.

(c) A state agency that has a dispute regarding charges for fire and life safety building code inspections provided by the State Fire Marshal shall notify the State Fire Marshal, in writing, of the dispute and the basis therefor. The State Fire Marshal shall immediately provide a credit to the state agency in the subsequent billing or billings for the amount of the charges in dispute. No further transfer of funds shall occur with respect to the services for which charges are disputed until the dispute is resolved by the State Fire Marshal, subject to the approval of the Department of Finance.

SEC. 79. Section 50710.1 of the Health and Safety Code is amended to read:

50710.1. (a) If all the development costs of any migrant farm labor center assisted pursuant to this chapter are provided by federal, state, or local grants, and if inadequate funds are available from any federal, state, or local service to write-down operating costs, the department may approve rents for that center in excess of rents charged in other centers

assisted by the Office of Migrant Services. However, notwithstanding any other provision of law, commencing with the 2005 growing season, the department shall not increase rents for residents of any Office of Migrant Services facility to a level that exceeds 30 percent of the average annualized household incomes of residents of the facility without specific legislative authorization. Prior to approving these rents, the department shall consider the adequacy of evidence presented by the entity operating the center that the rents reimburse actual, reasonable, and necessary costs of operation.

(b) At the end of each fiscal year, any entity operating a migrant farm labor center pursuant to this chapter may establish a reserve account comprised of the excess funds provided through the annual operating contract received from the department, if the department certifies there is no need to address reasonable general maintenance requirements or repairs, rehabilitation, and replacement needs of the requesting migrant farm labor center which affect the immediate health and safety of residents. The cumulative balance of the reserve account shall not exceed 10 percent of the annual operating funds annually committed to the entity by the department. Funds in the reserve account shall be used only for capital improvements such as replacing or repairing structural elements, furniture, fixtures, or equipment of the migrant farm labor center, the replacement or repair of which are reasonably required to preserve the migrant farm labor center. Withdrawals from the reserve account shall be made only upon the written approval of the department of the amount and nature of expenditures.

(c) A migrant farm labor center governed by this chapter may be operated for an extended period beyond 180 days after approval by the department, provided that all of the following conditions are satisfied:

(1) No additional subsidies provided by the department are used for the operation or administration of the migrant farm center during the extended occupancy period except to the extent that state funds are appropriated or authorized for the purpose of funding all or part of the cost of subsidizing extended occupancy periods during the first 14 days only.

(2) Rents are not to be increased above the rents charged during the period immediately prior to the extended occupancy period unless the department finds that an increase is necessary to cover the difference between reasonable operating costs necessary to keep the center open during the extended occupancy period and the amount of state funds available pursuant to paragraph (1) and any contributions from agricultural employers or other federal, local, or private sources. These contributions shall not be used to reduce the amount of state funds that

otherwise would be made available to the center to subsidize rents during an extended occupancy period.

(3) In no event shall the rent during the extended occupancy period exceed the average daily operating cost of the center, less any subsidy funds available pursuant to paragraph (1) or *(2)*. Households representing at least *25* percent of the units in the center shall have indicated their desire and intention to remain in residency during an extended occupancy period by signing a petition to the local entity to keep the center open for an cxtended period at rents that are the same or higher than rents during the regular period of occupancy. Each household shall receive a clear bilingual notice describing the cxtended occupancy options attached to the lease.

The Legislature finds and declares that because the number of residents may be substantially reduced during the extended occupancy period, a rent increase may be necessary to cover operating costs. It is the intent of the Legislature that the public sector, private sector, and farmworkers should each play an important role in ensuring the financial viability of this important source of needed housing.

(4) An extended occupancy period is requested by an entity operating the migrant farm labor center and received by the department no earlier than **30** days and no later than 15 days prior to the center's scheduled closing date. The department shall notify the entity and petitioning residents of the final decision no later than seven days prior to the center's scheduled closing date. During the extended occupancy period, occupancy shall be limited to migrant farmworkcrs and their families who resided at a migrant center during the regular period of occupancy.

(5) Before approving or denying an extension and establishing the rents for the extended occupancy period, both of which shall be within the sole discretion of the department, the department shall take into consideration all of the following factors:

(A) The structural and physical condition of the center, including water and sewer pond capacity and the capacity and willingness of the local entity to operate the center during the extended occupancy period.

(B) Whether local approvals are required, and whether there are competing demands for the use of the center's facilities.

(C) Whether there is adequate documentation that there is a need for residents of the migrant center to continue work in the area, as confirmed by the local entity.

(D) The climate during the extended occupancy period.

(E) The amount of subsidy funds available that can be allocated to each center to subsidize rents below the operating costs and the cost of operating each center during the extended occupancy period.

(F) The extended occupancy period is decmcd necessary for the health and safety of the migrant farmworkers and their families.

(G) Other relevant factors affecting the migrant fannworkers and their families and the operation of the centers.

(6) The rents collected during the extended occupancy period shall be remitted to the department. However, based on financial records to the satisfaction of the department, the department may reduce the amount to be remitted by an amount it determines the local entity has expended during the extended occupancy period that is not being reimbursed by department funds.

(7) The occupancy during the extended occupancy period represents a new tenancy and is not subject to existing and statutory and regulatory limitations governing rents. Prior to the beginning of the extended occupancy period, residents shall be provided at least two days' advance written notice of any rent increase and of the expected length of the extended occupancy period, including the scheduled date of closure of the center, and prior to being eligible for residency during the extended occupancy period, residents shall sign rental documents deemed necessary by the department.

(d) The Legislature finds and declares that variable annual climates and changing agricultural techniques create an inability to accurately predict the end of a harvest season for the purposes of housing migrant farmworkers and their families. Because of these factors, in any part of this state, and in any specific year, one or more migrant farmworker housing centers governed by this chapter need to remain open for **up** to two additional weeks to allow the residents to provide critical assistance to growers in harvesting crops while also fulfilling work expectations that encouraged them to migrate to the areas of the centers. In addition, if the centers close prematurely, the migrant farmworkers often must remain in the areas to work for up to two weeks. During this time they will not be able to obtain decent, safe, and affordable housing and the health and safety of their families and the surrounding community will be threatened.

The Legislature therefore finds and declares that, for the purposes of any public or private right, obligation, or authorization related to the use of property and improvements thereon as a 180-day migrant center, an extended use of any housing center governed by this chapter pursuant to this section is deemed to be the same as the 180-day use generally authorized by this chapter.

SEC. 80. Section 53533 of the Health and Safety Code is amended to read:

53533. (a) Money deposited in the fund from the sale of bonds pursuant to this part shall be allocated for expenditure in accordance with the following schedule:

(1) Nine hundred ten million dollars ($910,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2, except for the following:

(A) Fifty million dollars ($50,000,000) shall be transferred to the Preservation Opportunity Fund and, notwithstanding Section 13340 of the Government Code, is continuously appropriated without regard to fiscal years for the preservation of at-risk housing pursuant to Chapter 5 (commencing with Section 50600) of Part 2.

(B) Twenty million dollars ($20,000,000) shall be used for nonresidential space for supportive services, including, but not limited to, job training, health services, and child care within, or immediately proximate to, projects to be funded under the Multifamily Housing Program. This funding shall be in addition to any applicable per-unit or project loan limits and may be in the form of a grant. Service providers shall ensure that services are available to project residents on a priority basis over the general public.

(C) Twenty-five million dollars ($25,000,000) shall be used for matching grants to local housing trust funds pursuant to Section 50843.

(D) Fifteen million dollars ($15,000,000) shall be used for student housing through the Multifamily Housing Program, subject to the following provisions:

(i) The department shall give first priority for projects on land owned by a University of California or California State University campus. Second priority shall be given to projects located within one mile of a University of California or California State University campus that is suffering from a severe shortage of housing and limited availability of developable land as determined by the department. Those determinations shall be set forth in the Notice of Funding Availability and shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code.

(ii) All funds shall be matched on a one-to-one basis from private sources or by the University of California or California State University. For the purposes of this subparagraph, "University of California" includes the Hastings College of the Law.

(iii) Occupancy for the units shall be restricted to students enrolled on a full-time basis in the University of California or California State University.

(iv) Income eligibility pursuant to the Multifamily Housing Program shall be established by verification of the combined income of the student and his or her family.

(v) Any funds not used for this purpose within 24 months of the date that the funds are made available shall be awarded pursuant to subdivision **(a)** for the Downtown Rebound Program as set forth in paragraph (1) of subdivision (c) of Section 50898.2.

(E) Any funds not encumbered for the purposes set forth in this paragraph, except subparagraph (D), within 30 months of availability shall revert to the Housing Rehabilitation Loan Fund created by Section 50661 for general use in the Multifamily Housing Program.

(2) One hundred ninety-five million dollars ($195,000,000) shall be transferred to the Emergency Housing and Assistance Fund to be expended for the Emergency Housing and Assistance Program authorized by Chapter 11.5 (commencing with Section 50800 of Part 2).

(3) One hundred ninety-five million dollars ($195,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for supportive housing projects under the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2, to serve individuals and households moving from emergency shelters or transitional housing or those at risk of homelessness.

(4) Two hundred million dollars ($200,000,000) shall be transferred to the Joe Serna, Jr. Farmworker Housing Grant Fund to be expended for farmworker housing programs authorized by Chapter 3.2 (commencing with Section 50517.5) of Part 2, except for the following:

(A) Twenty-five million dollars ($25,000,000) shall be used for projects that serve migratory agricultural workers as defined in subdivision (i) of Section 7602 of Title 25 of the California Code of Regulations. If, after July 1,2003, funds remain after the approval of all feasible applications, the department shall be deemed an eligible recipient for the purposes of reconstructing migrant centers operated through the Office of Migrant Services pursuant to Chapter 8.5 (commencing with Section 50710) that would otherwise be scheduled for closure due to health or safety considerations or are in need of significant repairs to ensure the health and safety of the residents. Of the dollars allocated by this section, the department shall receive five million five hundred thousand dollars ($5,500,000) for these purposes.

(B) Twenty million dollars ($20,000,000) shall be used for developments that also provide health services to the residents. Recipients of these funds shall be required to provide ongoing monitoring of funded developments to ensure compliance with the requirements of the Joe Serna, Jr. Farmworker Housing Grant Program.

Projects receiving funds through this allocation shall be ineligible for funding through the Joe Serna, Jr. Farmworker Housing Grant Program.

(C) Any funds not encumbered for the purposes set forth in this paragraph within 30 months of availability shall revert for general use in the Joe Serna, Jr. Farmworker Housing Grant Program.

(5) Two hundred five million dollars ($205,000,000) shall be transferred to the Self-Help Housing Fund. Notwithstanding Section 13340 of the Government Code and Section 50697.1, these funds arc hereby continuously appropriated without regard to fiscal years to the department to be expended for the purposes of the CalHome Program authorized by Chapter **6** (commencing with Section 50650) of Part 2, except for the following:

(A) Seventy-five million dollars ($75,000,000) shall be transferred to the Building Equity and Growth in Neighborhoods Fund to be used for the Building Equity and Growth in Neighborhoods (BEGIN) Program pursuant to Chapter 4.5 (commencing with Section 50860) of Part 1.

(€3) Five million dollars ($5,000,000) shall be used to provide grants to cities, counties, cities and counties, and nonprofit organizations to provide grants for lower income tenants with disabilities for the purpose of making exterior modifications to rental housing in order to make that housing accessible to persons with disabilities. For the purposes of this subparagraph, "exterior modifications" includes modifications that are made to entryways or to common areas of the structure or property. The program provided for under this subparagraph shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code.

(C) Ten million dollars ($10,000,000) shall be expended for construction management under the California Self-Help Housing Program pursuant to subdivision (b) of Section 50696.

(D) Any funds not encumbered for the purposes set forth in this paragraph within 30 months of availability shall revert for general use in the CalHome Program.

(6) Five million dollars ($5,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for capital expenditures in support of local code enforcement and compliance programs. This allocation shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code. If the moneys allocated pursuant to this paragraph are not expended within three years after being transferred, the department may, in its discretion, transfer the moneys to the Housing Rehabilitation Loan Fund to be expended for the Multifamily Housing Program.

(7) Two hundred ninety million dollars ($290,000,000) shall be transferred to the Self-Help Housing Fund. Notwithstanding Section 50697.1, these funds are hereby continuously appropriated to the agency to be expended for the purposes of the California Homebuyer's Downpayment Assistance Program authorized by Chapter 11 (commencing with Section 51500) of Part 3, except for the following:

(A) Fifty million dollars ($50,000,000) shall be transferred to the School Facilities Fee Assistance Fund as provided by subdivision (a) of Section 51453 to be used for the Homebuyer Down Payment Assistance Program of 2002 established by Section 51451.5.

(B) Eighty-five million dollars ($85,000,000) shall be transferred to the California Housing Loan Insurance Fund to be used for purposes of Part 4 (commencing with Section 51600). The agency may transfer these moneys as often as quarterly in amounts that shall not exceed the dollar amount of new insurance written by the agency during the preceding quarter for loans for the purchase of homes made to owner-occupant borrowers with incomes not exceeding 120 percent of the area median income, divided by the risk-to-capital ratio required for the maintenance of satisfactory credit ratings from nationally recognized credit rating services.

(C) (i) Twelve million five hundred thousand dollars ($12,500,000) shall be reserved for downpayment assistance to low-income first-time home buyers who, as documented to the agency by a nonprofit organization certified and funded to provide home ownership counseling by a federally funded national nonprofit corporation, are purchasing a residence in a community revitalization area targeted by the nonprofit organization and who has received home ownership counseling from the nonprofit organization. Community revitalization areas shall be limited to targeted neighborhoods identified by qualified nonprofit organizations as those neighborhoods in need of economic stimulation, renovation, and rehabilitation through efforts that include increased home ownership opportunities for low-income families.

(ii) Effective January 1, 2004, 50 percent of the funds available pursuant to clause (i) shall be available for downpayment assistance in an amount not to exceed 6 percent of the home sales price.

(iii) After 12 months of availability, if more than 50 percent of the funds set aside pursuant to clause (ii) have been encumbered, the agency shall discontinue that program and make all remaining funds available for downpayment assistance pursuant to clause (i). If, however, less than 50 percent of the funds allocated pursuant to clause (ii) are encumbered after that 12-month period, the agency may, at its sole discretion, either make all remaining funds provided pursuant to clause (i) available for the purpose of clause (ii), or may continue to implement clause (ii) until

all of the funds allocated for that purpose as of January 1, 2004, have been encumbered.

(D) Twenty-five million dollars ($25,000,000) shall be used for downpaymcnt assistance pursuant to Section 51505. After 18 months of availability, if the agency determines that the funds set aside pursuant to this section will not be utilized for purposes of Section 51505, these funds shall be available for the general use of the agency for the purposes of the California Homebuyer's Downpayment Assistance Program, but may also continue to be available for the purposes of Section 51505.

(E) Funds not utilized for the purposes set forth in subparagraphs (B) and (C) within 30 months shall revert for general use in the California Homebuyer's Downpayment Assistance Program.

(8) One hundred million dollars ($100,000,000) shall be transferred to the Jobs Housing Improvement Account to be expended as capital grants to local governments for increasing housing pursuant to enabling legislation. If the enabling legislation fails to become law in the 2001-02 Regular Session of the Legislature, the specified allocation for this program shall be void and the funds shall revert for general use in the Multifamily Housing Program as specified in paragraph (1) of subdivision (a).

(b) No portion of the money allocated pursuant to this section may be expended for project operating costs, except that this section does not preclude expenditures for operating costs from reserves required to be maintained by or on behalf of the project sponsor.

(c) The Legislature may, from time to time, amend the provisions of law related to programs to which funds are, or have been, allocated pursuant to this section for the purpose of improving the efficiency and effectiveness of the program, or for the purpose of furthering the goals of the program.

(d) The Bureau of State Audits shall conduct periodic audits to ensure that bond proceeds are awarded in a timely fashion and in a manner consistent with the requirements of this part, and that awardees of bond proceeds are using funds in compliance with applicable provisions of this part.

SEC. 81. Section 2065 of the Labor Code is amended to read:

2065. (a) The Car Wash Worker Restitution Fund is established in the State Treasury.

(1) The following moneys shall be deposited into this fund:

(A) The annual fee required pursuant to subdivision (b) of Section 2059.

(B) Fifty percent of the fines collected pursuant to Section 2064.

(C) Fifty dollars ($50) of the initial registration fee required pursuant to subdivision (a) of Section 2059.

(2) Upon appropriation by the Legislature, the moneys in the fund shall be disbursed by the commissioner only to persons determined by the commissioner to have been damaged by the failure to pay wages and penalties and other related damages by any employer, to ensure the payment of wages and penalties and other related damages. Any disbursed funds subsequently recovered by the commissioner shall be returned to the fund.

(b) The Car Wash Worker Fund is established in the State Treasury.

(1) The following moneys shall be deposited into this fund:

(A) Fifty percent of the fines collected pursuant to Section 2064.

(B) The initial registration fee required pursuant to subdivision (a) of Section 2059, less the amount specified in subparagraph (C) of paragraph (1) of subdivision (a).

(2) Upon appropriation by the Legislature, the moneys in this fund shall be applied to costs incurred by the commissioner in administering the provisions of this part and enforcement and investigation of the car washing and polishing industry.

(c) The Department of Industrial Relations may establish by regulation those procedures necessary to carry out the provisions of this section.

SEC. 83. Section 4750 of the Penal Code is amended to read:

4750. A city, county, or superior court shall be entitled to reimbursement for reasonable and necessary costs connected with state prisons or prisoners in connection with any of the following:

(a) Any crime committed at a state prison, whether by a prisoner, employee, or other person.

With respect to a prisoner, "crime committed at a state prison" as used in this subdivision, includes, but is not limited to, crimes committed by the prisoner while detained in local facilities as a result of a transfer pursuant to Section 2910 or 6253, or in conjunction with any hearing, proceeding, or other activity for which reimbursement is otherwise provided by this section.

(b) Any crime committed by a prisoner in furtherance of an escape. Any crime committed by an escaped prisoner within 10 days after the escape and within 100 miles of the facility from which the escape occurred shall be presumed to have been a crime committed in furtherance of an escape.

(c) Any hearing on any return of a writ of habeas corpus prosecuted by or on behalf of a prisoner.

(d) Any trial or hearing on the question of the sanity of a prisoner.

(e) Any costs not otherwise reimbursable under Section 1557 or any other related provision in connection with any extradition proceeding for any prisoner released to hold.

(f) Any costs incurred by a coroner in connection with the death of a prisoner.

(g) Any costs incurred in transporting a prisoner within the host county or as requested by the prison facility or incurred for increased security while a prisoner is outside a state prison.

SEC. 84. Section 4751 of the Penal Code is amended to read:

4751. Costs incurred by a city or county include all of the following:

(a) Costs of law enforcement agencies in connection with any matter set forth in Section 4750, including the investigation or evaluation of any of those matters regardless of whether a crime has in fact occurred, a hearing held, or an offense prosecuted.

(b) Costs of participation in any trial or hearing of any matter set forth in Section 4750, including costs for the preparation for the trial, pretrial hearing, actual trial or hearing, expert witness fees, the costs of guarding or keeping the prisoner, the transportation of the prisoner, the costs of appeal, and the execution of the sentence. The cost of detention in a city or county correctional facility shall include the same cost factors as are utilized by the Department of Corrections in determining the cost of prisoner care in state correctional facilities.

(c) The costs of the prosecuting attorney in investigating, evaluating, or prosecuting cases related to any matter set forth in Section 4750, whether or not the prosecuting attorney decides to commence legal action.

(d) Costs incurred by the public defender or court appointed attorney with respect to any matter set forth in Section 4750.

(e) Any other costs reasonably incurred by a county in connection with any matter set forth in Section 4750.

SEC. 85. Section 4751.5 is added to the Penal Code, to read:

4751.5. Costs incurred by a superior court include all of the following:

(a) Costs of any trial or hearing of any matter set forth in Section 4750, including costs for the preparation of the trial, pretrial hearing, and the actual trial or hearing.

(b) Any other costs reasonably incurred by a superior court in connection with any matter set forth in Section 4750.

SEC. 86. Section 4752 of the Penal Code is amended to read:

4752. As used in this chapter, reasonable and necessary costs shall be based upon all operating costs, including the cost of elected officials, except superior court judges, while serving in line functions and including all administrative costs associated with providing the necessary services and securing reimbursement therefor. Administrative costs include a proportional allowance for overhead determined in accordance with current accounting practices.

SEC. 87. Section 4753 of the Penal Code is amended to read:

4753. A city or county shall designate an officer or agency to prepare a statement of costs that shall bc reimbursed under this chapter.

The statement shall be sent to the Controller for approval. The statement may not include any costs that are incurred by a superior court, as described in Section 4751.5. The Controller shall reimburse the city or county within 60 days after receipt of the statement or provide a written statement as to the reason for not making reimbursement at that time. If sufficient funds are not available, the Controller shall request the Director of Finance to include any amounts necessary to satisfy the claims in a request for a deficiency appropriation.

SEC. 88. Section 4753.5 is added to the Penal Code, to read:

4753.5. A superior court shall prepare a statement of costs that shall be reimbursed under this chapter. The state may not include any costs that are incurred by a city or county, as described in Section 4751. The statement shall be sent to the Administrative Office of the Courts for approval and reimbursement.

SEC. 89. Section 5023.5 is added to the Penal Code, to read:

5023.5. (a) Notwithstanding any other provision of law, the Department of Corrections and the Department of the Youth Authority may contract with providers of emergency health care services. Hospitals that do not contract with the Department of Corrections or the Department of the Youth Authority for emergency health care services shall provide these services to these departments on the same basis as they are required to provide these services pursuant to Section 489.24 of Title 42 of the Code of Federal Regulations. Neither the Department of Corrections nor the Department of the Youth Authority shall reimburse a hospital that provides these services, and that the department has not contracted with, at a rate that exceeds the hospital's reasonable and allowable costs, regardless of whether the hospital is located within or outside of California.

(b) An entity that provides ambulance or any other emergency or nonemergency response service to the Department of Corrections or the Department of the Youth Authority, and that does not contract with the departments for that service, shall be reimbursed for the service at the rate established by Medicare. Neither the Department of Corrections nor the Department of the Youth Authority shall reimburse a provider of any of these services that the department has not contracted with at a rate that exceeds the provider's reasonable and allowable costs, regardless of whether the provider is located within or outside of California.

(c) The Department of Corrections and the Department of the Youth Authority shall work with the State Department of Health Services in obtaining hospital cost information in order to establish the costs

allowable under this section. The State Department of Health Services may provide the Department of Corrections or the Department of the Youth Authority with hospital cost information that the State Department of Health Services obtains pursuant to Sections 14170 and 14171 of the Welfare and Institutions Code.

(d) For the purposes of this section, "reasonable and allowable costs" shall be defined in accordance with Part 413 of Title 42 of the Code of Federal Regulations and federal Centers for Medicare and Medicaid Services Publication Numbers 15.1 and 15.2.

SEC. 90. Section 6005 of the Penal Code is amended to read:

6005. (a) Whenever a person confined to a correctional institution under the supervision of the Department of the Youth Authority is charged with a public offense committed within the confines of that institution and is tried for that public offense, a city, county, or superior court shall be entitled to reimbursement for reasonable and necessary costs connected with that matter.

(b) The appropriate financial officer or other designated official of a county or the city finance officer of a city incurring any costs in connection with that matter shall make out a statement of all the costs incurred by the county or city for the investigation, the preparation for the trial, participation in the actual trial of the case, all guarding and keeping of the person, and the execution of the sentence of the person, properly certified to by a judge of the superior court of the county. The statement may not include any costs that are incurred by the superior court pursuant to subdivision (c). The statement shall be sent to the department for its approval. After the approval the department must cause the amount of the costs to be paid out of the money appropriated for the support of the department to the county treasurer of the county or the city finance officer of the city incurring those costs.

(c) The superior court shall prepare a statement of all costs incurred by the court for the preparation of the trial and the actual trial of the case. The statement may not include any costs that are incurred by the city or county pursuant to subdivision (a). The statement shall be sent to the Administrative Office of the Courts for approval and reimbursement.

SEC. 91. Section 10108.8 is added to the Public Contract Code, to read:

10108.8. The Department of Corrections, where feasible, shall enter into two or more procurement contracts for the purchase and development of the Business Information System (BIS) Project. The BIS project shall be developed to allow integration with other relevant statewide financial and personnel systems.

SEC. 92. Section 25226 is added to the Public Resources Code, to read:

25226. (a) The Energy Technologies Research, Development, and Demonstration Account established under former Section 25683 is hereby continued in existence, in the General Fund, to be administered by the commission for the purpose of carrying out Chapter 7.3 (commencing with Section 25630) and Chapter 7.5 (commencing with Section 25650).

(b) The Controller shall deposit in the account all money appropriated to the account by the Legislature, plus accumulated interest on that money, and money from loan repayments, interest, and royalties pursuant to Sections 25630 and 25650, for use by the commission, upon appropriation by the Legislature, for the purposes specified in Chapter 7.3 (commencing with Section 25630) and Chapter 7.5 (commencing with Section 25650).

SEC. 93. Section 25630 of the Public Resources Code is amended to read:

25630. (a) The commission shall establish a small business energy assistance low-interest revolving loan program to fund the purchase of equipment for alternative technology energy projects for California's small businesses.

(b) Loan repayments, interest, and royalties shall be deposited in the Energy Technologies Research, Development, and Demonstration Account. The interest rate shall be based on surveys of existing financial markets and at rates not lower than the Pooled Money Investment Account.

SEC. 94. Section 26020 of the Public Resources Code is amended to read:

26020. (a) The authority may incur indebtedness and issue and renew negotiable bonds, notes, debentures, or other securities of any kind or class. All indebtedness, however evidenced, shall be payable solely from revenues of the authority and the proceeds of its negotiable bonds, notes, debentures, or other securities, and shall not exceed the sum of one billion dollars ($1,000,000,000)of total debt outstanding.

(b) As used in this section, "total debt outstanding" does not include either of the following:

(1) A bond for which provisions have been made for prepayment through irrevocable escrow or other means, so that the bond is not considered outstanding under its authorizing document.

(2) Indebtedness that is incurred to refund existing debts, except to the extent that the indebtedness exceeds the amount of those debts.

SEC. 95. Section 884.5 is added to the Public Utilities Code, to read

884.5. (a) This section shall apply to all customers eligible to receive discounts for telecommunications services under the federal Universal Service E-rate program administered by the Schools and

Libraries Division of the Universal Service Administrative Company that also apply for discounts on telecommunications service provided through the California Teleconnect Fund program pursuant to subdivision (a) of Section 280.

(b) A teleconnect discount shall be applied after applying the E-rate discount. The commission shall first apply the E-rate discount, regardless of whether the customer has applied for the E-rate discount or has been approved, if the customer, in the determination of the commission, meets the eligibility requirements for the E-rate discount.

(c) Notwithstanding subdivision (b), the teleconnect discount shall be applied without regard to the E-rate discount for any necessary small school, as defined in Section 42283 of the Education Code, unless that school has applied for, and been approved to receive, the E-rate discount.

(d) As a condition of participation in the California Teleconnect Fund program, the commission shall require customers eligible for the E-rate discount to provide the commission with information necessary for the commission to determine the percentage of the E-rate discount to which the customer would be entitled. The commission may require that customers update this information annually or if there is a material change.

(e) In establishing any discount under the California Teleconnect Fund program, the commission shall give priority to bridging the "digital divide" by encouraging expanded access to state-of-the-art technologies for rural, inner-city, low-income, and disabled Californians.

(f) As used in this section:

(1) "E-rate discount" means a discount under the E-rate program.

(2) "E-rate program" means the federal Universal Service E-rate program administered by the Schools and Libraries Division of the Universal Service Administrative Company.

(3) "Teleconnect discount" means a discount on telecommunications service provided through the California Teleconnect Fund program set forth in subdivision (a) of Section 280.

(g) This section shall become operative on January 1,2006.

SEC. 96. Section 63.1 of the Revenue and Taxation Code is amended to read:

63.1. (a) Notwithstanding any other provision of this chapter, a change in ownership shall not include the following purchases or transfers for which a claim is filed pursuant to this section:

(1) The purchase or transfer of real property which is the principal residence of an eligible transferor in the case of a purchase or transfer between parents and their children.

(2) The purchase or transfer of the first one million dollars ($1,000,000) of full cash value of all other real property of an eligible transferor in the case of a purchase or transfer between parents and their children.

(3) (A) Subject to subparagraph (B), the purchase or transfer of real property described in paragraphs (1) and (2) of subdivision (a) occurring on or after March 27, 1996, between grandparents and their grandchild or grandchildren, if all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer.

(B) A purchase or transfer of a principal residence shall not be excluded pursuant to subparagraph **(A)** if the transferee grandchild or grandchildren also received a principal residence, or interest therein, through another purchase or transfer that was excludable pursuant to paragraph (1) of subdivision (a). The full cash value of any real property, other than a principal residence, that was transferred to the grandchild or grandchildren pursuant to a purchase or transfer that was excludable pursuant to paragraph (2) of subdivision (a) and the full cash value of a principal residence that fails to qualify for exclusion as a result of the preceding sentence shall be included in applying, for purposes of paragraph (2) of subdivision (a), the one million dollar ($1,000,000) full cash value limit specified in paragraph (2) of subdivision (a).

(b) (1) For purposes of paragraph (1) of subdivision (a), "principal residence" means a dwelling for which a homeowners' exemption or a disabled veterans' residence exemption has been granted in the name of the eligible transferor. "Principal residence" includes only that portion of the land underlying the principal residence that consists of an area of reasonable size that is used as a site for the residence.

(2) For purposes of paragraph (2) of subdivision (a), the one million dollar ($1,000,000) exclusion shall apply separately to each eligible transferor with respect to all purchases by and transfers to eligible transferees on and after November 6, 1986, of real property, other than the principal residence, of that eligible transferor. The exclusion shall not apply to any property in which the eligible transferor's interest was received through a transfer, or transfers, excluded from change in ownership by the provisions of either subdivision (f) of Section 62 or subdivision (b) of Section 65, unless the transferor qualifies as an original transferor under subdivision (b) of Section 65. In the case of any purchase or transfer subject to this paragraph involving two or more eligible transferors, the transferors may elect to combine their separate one million dollar ($1,000,000) exclusions and, upon making that election, the combined amount of their separate exclusions shall apply to any property jointly sold or transferred by the electing transferors,

provided that in no case shall the amount of full cash value of real property of any one eligible transferor excluded under this election exceed the amount of the transferor's separate unused exclusion on the date of the joint sale or transfer.

(c) As used in this section:

(1) "Purchase or transfer between parents and their children" means either a transfer from a parent or parents to a child or children of the parent or parents or a transfer from a child or children to a parent or parents of the child or children. For purposes of this section, the date of any transfer between parents and their children under a will or intestate succession shall be the date of the decedent's death, if the decedent died on or after November 6, 1986.

(2) "Purchase or transfer of real property between grandparents and their grandchild or grandchildren" means a purchase or transfer on or after March 27, 1996, from a grandparent or grandparents to a grandchild or grandchildren if all of the parents of that grandchild or those grandchildren who qualify as the children of the grandparents are deceased as of the date of the transfer. For purposes of this section, the date of any transfer between grandparents and their grandchildren under a will or by intestate succession shall be the date of the decedent's death.

(3) "Children" means any of the following:

(A) Any child born of the parent or parents, except a child, as defined in subparagraph (D), who has been adopted by another person or persons.

(B) Any stepchild of the parent or parents and the spouse of that stepchild while the relationship of stepparent and stepchild exists. For purposes of this paragraph, the relationship of stepparent and stepchild shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving stepparent.

(C) Any son-in-law or daughter-in-law of the parent or parents. For the purposes of this paragraph, the relationship of parent and son-in-law or daughter-in-law shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving son-in-law or daughter-in-law.

(D) Any child adopted by the parent or parents pursuant to statute, other than an individual adopted after reaching the age of 18 years.

(4) "Grandchild" or "grandchildren" means any child or children of the child or children of the grandparent or grandparents.

(5) "Full cash value" means full cash value, as defined in Section 2 of Article XIII A of the California Constitution and Section 110.1, with any adjustments authorized by those sections, and the full value of any

new construction in progress, determined as of the date immediately prior to the date of a purchase by or transfer to an eligible transferee of real property subject to this section.

(6) "Eligible transferor" means a grandparent, parent, or child of an eligible transferee.

(7) "Eligible transferee" means a parent, child, or grandchild of an eligible transferor.

(8) "Real property" means real property as defined in Section 104. Real property does not include any interest in a legal entity.

(9) "Transfer" includes, and is not limited to, any transfer of the present beneficial ownership of property from an eligible transferor to an eligible transferee through the medium of an inter vivos or testamentary trust.

(10) "Social security number" also includes a taxpayer identification number issued by the Internal Revenue Service in the case in which the taxpayer is a foreign national who cannot obtain a social security number.

(d) (1) The exclusions provided for in subdivision (a) shall not be allowed unless the eligible transferee, the transferee's legal representative, or the executor or administrator of the transferee's estate files a claim with the assessor for the exclusion sought and furnishes to the assessor each of the following:

(A) A written certification by the transferee, the transferee's legal representative, or the executor or administrator of the transferee's estate, signed and made under penalty of perjury that the transferee is a grandparent, parent, child, or grandchild of the transferor and that the transferor is his or her parent, child, or grandparent. In the case of a grandparent-grandchild transfer, the written certification shall also include a certification that all the parents of the grandchild or grandchildren who qualify as children of the grandparents were deceased as of the date of the purchase or transfer and that the grandchild or grandchildren did or did not receive a principal residence excludable under paragraph (1) of subdivision (a) from the deceased parents, and that the grandchild or grandchildren did or did not receive real property other than a principal residence excludable under paragraph (2) of subdivision (a) from the deceased parents. The claimant shall provide legal substantiation of any matter certified pursuant to this subparagraph at the request of the county assessor.

(B) **A** written certification by the transferor, the transferor's legal representative, or the executor or administrator of the transferor's estate, signed and made under penalty of perjury that the transferor is a grandparent, parent, or child of the transferee and that the transferor is

seeking the exclusion under this section and will not file a claim to transfer the base year value of the property under Section 69.5.

(C) **A** written certification shall also include either or both of the following:

(i) If the purchase or transfer of real property includes the purchase or transfer of residential real property, a certification that the residential real property is or is not the transferor's principal residence.

(ii) If the purchase or transfer of real property includes the purchase or transfer of real property other than the transferor's principal residence, a certification that other real property of the transferor that is subject to this section has or has not been previously sold or transferred to an eligible transferee, the total amount of full cash value, as defined in subdivision (c), of any real property subject to this section that has been previously sold or transferred by that transferor to eligible transferees, the location of that real property, the social security number of each eligible transferor, and the names of the eligible transferees of that property.

(D) If there are multiple transferees, the certification and signature may be made by any one of the transferees, if both of the following conditions are met:

(i) The transferee has actual knowledge that, and the certification signed by the transferee states that, all of the transferees are eligible transferees within the meaning of this section.

(ii) The certification is signed by the transferee as a true statement made under penalty of perjury.

(2) If the full cash value of the real property purchased by or transferred to the transferee exceeds the permissible exclusion of the transferor or the combined permissible exclusion of the transferors, in the case of a purchase or transfer from two or more joint transferors, taking into account any previous purchases by or transfers to an eligible transferee from the same transferor or transferors, the transferee shall specify in his or her claim the amount and the allocation of the exclusion he or she is seeking. Within any appraisal unit, as determined in accordance with subdivision (d) of Section 51 by the assessor of the county in which the real property is located, the exclusion shall be applied only on a pro rata basis, however, and shall not be applied to a selected portion or portions of the appraisal unit.

(e) (1) The State Board of Equalization shall design the form for claiming eligibility. Except as provided in paragraph (2), any claim under this section shall be filed:

(A) For transfers of real property between parents and their children occurring prior to September 30, 1990, within three years after the date of the purchase or transfer of real property for which the claim is filed.

(B) For transfers of real property between parents and their children occurring on or after September 30, 1990, and for the purchase or transfer of real property between grandparents and their grandchildren occurring on or after March 27, 1996, within three years after the date of the purchase or transfer of real property for which the claim is filed, or prior to transfer of the real property to a third party, whichever is earlier.

(C) Notwithstanding subparagraphs **(A)** and (B), a claim shall be deemed to be timely filed if it is filed within six months after the date of mailing of a notice of supplemental or escape assessment, issued as a result of the purchase or transfer of real property for which the claim is filed.

(2) In the case in which the real property subject to purchase or transfer has not been transferred to a third party, a claim for exclusion under this section that is filed subsequent to the expiration of the filing periods set forth in paragraph (1) shall be considered by the assessor, subject to all of the following conditions:

(A) Any exclusion granted pursuant to that claim shall apply commencing with the lien date of the assessment year in which the claim is filed.

(B) Under any exclusion granted pursuant to that claim, the adjusted full cash value of the subject real property in the assessment year described in subparagraph **(A)** shall be the adjusted base year value of the subject real property in the assessment year in which the excluded purchase or transfer took place, factored to the assessment year described in subparagraph (A) for both of the following:

(i) Inflation as annually determined in accordance with paragraph (1) of subdivision (a) of Section 51.

(ii) Any subsequent new construction occurring with respect to the subject real property.

(3) (A) Unless otherwise expressly provided, the provisions of this subdivision shall apply to any purchase or transfer of real property that occurred on or after November 6, 1986.

(B) Paragraph *(2)* shall apply to purchases or transfers between parents and their children that occurred on or after November 6, 1986, and to purchases or transfers between grandparents and their grandchildren that occurred on or after March 27, 1996.

(4) For purposes of this subdivision, a transfer of real property to a parent or child of the transferor shall not be considered a transfer to a third party.

(f) The assessor may report quarterly to the State Board of Equalization all purchases or transfers, other than purchases or transfers involving a principal residence, for which a claim for exclusion is made pursuant to subdivision (d). Each report shall contain the assessor's

parcel numbcr for each parcel for which the exclusion is claimed, the amount of each exclusion claimed, the social security numbcr of each eligible transferor, and any other information the board may require in order to monitor the one million dollar ($1,000,000) limitation in paragraph (2) of subdivision (a).

(g) This section shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree. Nothing in this subdivision shall be construed as conflicting with paragraph (1) of subdivision (c) or the general principle that transfers by reason of death occur at the time of death.

(h) (I) Except as provided in paragraph (2), this section shall apply to purchases and transfers of real property completed on or after November 6, 1986, and shall not be effective for any change in ownership, including a change in ownership arising on the date of a decedent's death, that occurred prior to that date.

(2) This section shall apply to purchases or transfers of real property between grandparents and their grandchildren occurring on or after March 27, 1996, and, with respect to purchases or transfers of real property between grandparents and their grandchildren, shall not be effective for any change in ownership, including a change in ownership arising on the date of a decedent's death, that occurred prior to that date.

(i) In recognition of the state and local interests served by the action made optional in subdivision (f), the Legislature encourages local agencies to continue taking the action formerly mandated by this section. However, nothing in this subdivision may be construed to impose any liability on a local agency that does not continue to take the formerly mandated action.

SEC. 97. Section 2514 of the Revenue and Taxation Code is amended to read:

2514. (a) Upon receipt of a certificate of eligibility described in Section 20602, Section 20639.6, or Section 20640.6 signed by the claimant, the claimant's spouse, or authorized agent appointed under regulations adopted by the Controller pursuant to Section 20603 or Section 20640.7, the tax collector shall ascertain whether the amount of money entered on the certificate by such claimant or agent, when added to other amounts available for such purpose, are sufficient to pay the amount due and owing.

If such is the case, the tax collector or his or her designee shall countersign the certificate and mark the tax paid. Once signed and countersigned, a certificate of eligibility shall be deemed a negotiable instrument for purposes of all laws of this state, as specified in subdivision (d) of Section 20602. Upon acceptance of such a certificate:

(1) The tax collector shall enter the fact that taxes on the property have been postponed in appropriate columns on the roll. In the case of the secured roll, this information may be entered in that portion of the roll which has been designated for tax default information required by Section 3439.

(2) In the case of a certificate of eligibility issued pursuant to Section 20602, the tax collector shall determine if the property described in the certificate of eligibility is subject to a lien recorded pursuant to Section 16182 of the Government Code. If the property is not subject to such a lien, the tax collector shall enter the amount paid by use of the certificate, the date of such payment, the Controller's identification number shown on the certificate of eligibility, the address of the property covered by the certificate, and the name of the claimant as shown on the certificate on a "notice of lien for postponed property taxes" form which shall be provided by the Controller. The tax collector shall thereafter forward such notice of lien form to the assessor.

(3) With respect to a claimant whose property taxes are paid by a lender from an impound, trust, or other type of account described in Section 2954 of the Civil Code, the tax collector shall notify the auditor of the claimant's name and address, and the amount of money entered on the certificate.

The auditor, treasurer, or disbursing officer shall send a check in the amount of money entered on the certificate to said claimant within 30 days following the date on which the installment is paid by the lender or the certificate of eligibility is received from the claimant, whichever is later.

(b) The procedures established by this chapter shall not be construed to require a lender to alter the manner in which a lender makes payment of the property taxes of such claimant.

(c) Notwithstanding any other provision in this section, any action required of a local agency by this section in order to give effect to the Senior Citizens Mobilehome Property Tax Postponement Law (Chapter 3.3 (commencing with Section 20639) of Part 10.5 of Division 2, and that has been determined by the Commission on State Mandates to be a reimbursable mandate, shall be optional.

SEC. 98. Section 8352 of the Revenue and Taxation Code is amended to read:

8352. Subject to the provisions of any budget bill heretofore or hereafter enacted, the money deposited to the credit of the Motor Vehicle Fuel Account is hereby appropriated for expenditure, allocation, or transfer as provided in this chapter.

SEC. 99. Section 30462 of the Revenue and Taxation Code is amended to read:

30462. (a) All money deposited in the Cigarette Tax Fund under this part is hereby appropriated, subject to the provisions of any budget bill heretofore or hereafter enacted, and shall, upon order of the Controller, be drawn therefrom and allocated for the following purposes:

(1) To pay the refunds authorized by this part.

(2) The balance remaining in the fund shall be transferred to the General Fund of this state on or before the last calendar day of each month.

(b) It is the intent of the Legislature that Section 30111 continues to prohibit the imposition of local taxes by any city, charter city, town, county, charter county, city and county, charter cities and counties, or other political subdivision or agency of this state, on the sale, use, ownership, holding, or other distribution of cigarettes and tobacco products except as provided by Section 30111. The Legislature finds and declares that the need for uniform statewide regulation and collection of cigarette taxes is a matter of statewide concern, and it is the Legislature's intent to regulate the subject matter of cigarette taxes comprehensively and to occupy the field to the exclusion of local action except as specifically provided by Section 30111.

SEC. 100. Section 1587 of the Unemployment Insurance Code is amended to read:

1587. No expenditure for administration shall be made from the Contingent Fund.

SEC. 101. Section 21401 of the Vehicle Code is amended to read:

21401. (a) Except as provided in Section 21374, only those official traffic control devices that conform to the uniform standards and specifications promulgated by the Department of Transportation shall be placed upon a street or highway.

(b) Any traffic signal controller that is newly installed or upgraded by the Department of Transportation shall be of a standard traffic signal communication protocol capable of two-way communications. A local authority may follow this requirement.

(c) Notwithstanding any other provision of this section, the training required by this section shall be optional for local agencies. In recognition of the state and local interests served by the action made optional in this section, the Legislature encourages local agencies to continue taking the action formerly mandated by this section. However, nothing in this subdivision may be construed to impose any liability on a local agency that does not continue to take the formerly mandated action.

SEC. 102. Section 42272 of the Vehicle Code is repealed.

SEC. 103. Section 3 of Chapter 899 of the Statutes of 1995 is amended to read:

Sec. 3. The sum of four million four hundred thousand dollars ($4,400,000) is appropriated from the California Residential Earthquake Recovery Fund to the Department of Insurance for the program established pursuant to this act. During the second half of the 1995–96 fiscal year, the Department of Insurance may use up to one hundred fifty-nine thousand dollars ($159,000) for costs of initial implementation and administration of the program. During the 1996–97 and 1997–98 fiscal years, no more than two hundred thousand dollars ($200,000) per fiscal year may be used by the department to administer this program. During the 1998–99 through 2002–03 fiscal years, no more than two hundred sixty-five thousand dollars ($265,000) per fiscal year may be used by the department to administer this program. Thereafter, no more than two hundred ninety thousand dollars ($290,000)" per fiscal year may be used by the department to administer the program.

Money appropriated by this section shall be available for expenditure until July 1, 2004.

SEC. 104. Section 30 of Chapter 573 of the Statutes of 2003 is amended to read:

Sec. 30. (a) Notwithstanding the inoperation and repeal, pursuant to Section 69999.5 of the Education Code, of the Governor's Scholars Program and the Governor's Distinguished Mathematics and Science Scholars Program, the Scholarshare Investment Board may continue to administer the scholarship accounts established pursuant to those programs for scholarships that were authorized and awarded prior to January 1, 2003. The Scholarshare Investment Board may administer those accounts in accordance with Article 20 (commencing with Section 69995) of Chapter 2 of Part 42 of the Education Code, as it read on January 1,2003, for the duration of the scholarship awards including, but not limited to, dispensing qualified withdrawals of awards.

(b) Notwithstanding subdivision (a), Article 20.5 (commencing with Section 69999.6) of Chapter 2 of Part 42 of the Education Code shall govern the administrative responsibilities of the Scholarshare Investment Board with respect to the Governor's Scholarship Programs on and after the date that Article 20.5 (commencing with Section 69999.6) of Chapter 2 of Part 42 of the Education Code becomes operative.

SEC. 105. The state office building in the City of Fresno for the California Court of Appeal, Fifth Appellate District, shall be named and known as the "George N. Zenovich Court of Appeal Building."

SEC. 106. It is the intent of the Legislature that the amendments to Sections 71601,71636, and 71823 of the Government Code made by this act are technical and clarifying of existing law.

SEC. 107. (a) The Deficit Recovery Fund is hereby established in the State Treasury.

(b) Proceeds of the bonds issued pursuant to the Economic Recovery Bond Act (Title 18 (commencing with Section 99050) of the Government Code) adopted by the voters at the March 2,2004, statewide primary election, accrued as 2003–04 fiscal year revenues, and deposited in the General Fund from the Economic Recovery Fund pursuant to Section 99060 of the Government Code, are hereby appropriated from the General Fund for transfer by the Controller for the 2003–04 fiscal year to the Deficit Recovery Fund, upon approval by the Director of Finance.

(c) The Director of Finance shall use the moneys transferred to the Deficit Recovery Fund pursuant to this section to reimburse General Fund expenditures, to reflect savings at a statewide level, for the 2003–04 and 2004–05 fiscal years.

(d) Moneys in the Deficit Recovery Fund may be borrowed for General Fund cashflow purposes as authorized by Sections 16310 and 16418 of the Government Code.

SEC. 109. Notwithstanding any other provision of law, the Commission on State Mandates shall reconsider former State Board of Control decisions 3916, 3759, 3760, and 3929 regarding the regional housing needs mandate enacted by Chapter 1143 of the Statutes of 1980 to determine whether the statute is a reimbursable mandate under Section 6 of Article XIII B of the California Constitution in light of federal and state statutes enacted and federal and state court decisions rendered since this statute was enacted, including the existence of fee authority pursuant to Section 65584.1 of the Government Code. The commission, if necessary, shall revise its parameters and guidelines to be consistent with this reconsideration. Any changes by the commission shall be deemed effective July 1,2004.

SEC. 110. The Commission on State Mandates shall amend the appropriate parameters and guidelines, and the Controller shall revise the appropriate reimbursement claiming instructions to be consistent with this act.

SEC. 111. (a) The sum of two million eight hundred thousand dollars ($2,800,000) is hereby appropriated from the Property Acquisition Law Money Account to the Department of General Services for the 2004–05 fiscal year, for activities associated with the disposal of surplus state property pursuant to Section 11011.10 of the Government Code, as added by Section 34 of this act.

(b) The balance of any funds appropriated pursuant to subdivision (a) that remain unencumbered on June 30,2005, shall revert to the Property Acquisition Law Money Account as of that date.

SEC. 112. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 113. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the necessary changes to implement the Budget Act of 2004 it is necessary that this act take effect immediately.

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or other arrangement is executed as set forth therein, and said section does not contemplate that each county, as an entity, is the local criminal justice planning board. 57 Ops.Atty.Gen. 295, 6-13-74.

2. Southeast regional reclamation authority

The south east regional reclamation authority is a "public agency" for purposes of contracting for inclusion in the public employees' retirement system and federal social security system. 66 Ops.Atty.Gen. 284, 9-15-83.

3. Airport authority

Pen.C. § 1463 does not govern the distribution of fines resulting from the issuance of parking citations and the making of arrests by airport security officers, even if the chief of the Burbank police department "deputized" the security officers, at the Burbank-Glendale-Pasadena Airport except where the airport authority itself processes the parking violation fines or contracts for such services. 65 Ops.Atty.Gen. 618, 12-23-82.

§ 6508. Power of administering agency; scope and exercise

The agency shall possess the common power specified in the agreement and may exercise it in the manner or according to the method provided in the agreement. If the agency is not one or more of the parties to the agreement but is a public entity, commission or board constituted pursuant to the agreement and such agency is authorized, in its own name, to do any or all of the following: to make and enter contracts, or to employ agents and employees, or to acquire, construct, manage, maintain or operate any building, works or improvements, or to acquire, hold or dispose of property or to incur debts, liabilities or obligations, said agency shall have the power to sue and be sued in its own name. Any authorization pursuant to the agreement for the acquisition by the agency of property for the purposes of a project for the generation or transmission of electrical energy shall not include the condemnation of property owned or otherwise subject to use or control by any public utility within the state.

The governing body of any agency having the power to sue or be sued in its own name, created by an agreement entered into after the amendment to this section at the 1969 Regular Session of the Legislature, between parties composed exclusively of parties which are cities, counties, or public districts of this state, irrespective of whether all such parties fall within the same category, may as provided in such agreement, and in any ratio provided in the agreement, be composed exclusively of officials elected to one or more of the governing bodies of the parties to such agreement. Any existing agreement composed of parties which are cities, counties or public districts which creates a governing board of any agency having the power to sue or be sued may, at the option of the parties to the agreement, be amended to provide that the governing body of the created agency shall be composed exclusively of officials elected to one or more of the governing boards of the parties to such agreement in any ratio agreed to by the Parties to the agreement. The governing body so created shall be empowered to delegate its functions to an advisory body or administrative entity for the Purposes of program development, policy formulation, or program implementation, provided, however, that any annual budget of the agency to which the delegation is made must be approved by the governing body of the Joint Powers Agency.

In the event that such agency enters into further contracts, leases or other transactions with one or more of the parties to such agreement, an official

elected to the governing body of such party may also act in the capacity of a member of the governing body of such agency.

(Added by Stats.1949, c. 84, p. 330, § 1. Amended by Stats.1957, c. 942, p. 2163, § 1; Stats.1963, c. 990, p. 2252, § 4; Stats.1968, c. 972, p. 1859, § 4; Stats.1969, c. 966, p. 1915, § 1; Stats.1979, c. 482, § 1.)

Historical and Statutory Notes

Derivation: Stats.1921, c. 363, p. 542, § 3.1, added Stats.1947, c. 1045, p. 2447, § 3.

Library References

States ⇨4.19, 5, 6.
WESTLAW Topic No. 360.
C.J.S. States §§ 28. 29, 31, 32, 143.

Notes of Decisions

1. Construction with other **laws**

Water C. 4 22233 providing that any irrigation district and any county may enter into a contract pertaining to the removing, repairing, or relocating of any facilities owned or to be owned by either party on roads or other property of the other provides a means of amicable cooperation in order to avoid the necessity of historical research every time a county bridge over a district canal has to be repaired or reconstructed, and such section is consistent with idea of intergovernmental cooperation upon matters of mutual concern and benefit demonstrated by enactment of the Joint Exercise of Powers Act. Beckwith v. Stanislaus County (App. 1959) 175 Cal.App.2d 40, 345 P.2d 363.

2. Borrowing money

This section does not grant the power to borrow funds on a temporary basis for operational expenses; borrowing power for that purpose is authorized by § 6504. 55 Ops.Atty.Gen. 164, 4–13–72.

3. Hold-harmless agreements

Metropolitan park and recreation commission's demand lor a hold-harmless agreement as a condition for swim club's use of publicly owned property was reasonably appropriate to the exercise of the commission's implied authority and power- to permit that use. San Joaquin County v. Stockton Swim Club (App. 3 Dist. 1974) I17 Cal.Rptr. 300, 42 Cal.App.3d 968.

4. Indemnity

County superintendents of schools were "public entities" when they entered into written agreements with other superintendents for formation of science and conservation education program, and they were therefore jointly liable when student was seriously injured because of negligence of supervising teacher in such program; absent provision for indemnification in such agreement, no claim for indemnity lay against district whose act of negligence allegedly led to student's injury. Ross v. Campbell Union School, Dist. (App. 1 Dist. 1977) 138 Cal.Rptr. 557, 70 Cal.App.3d 113.

Indemnity claim by metropolitan park and recreation commission for indemnification for attorney's fees, incurred in defending suit for injuries by swim club member, on basis of clause in contract for use of public pool between commission and swim club was within language of contract covering indemnity for a "cost or expense that may arise during or be caused in any way by such use or occupancy of the property," notwithstanding contention that indemnity clause was not sufficiently specific to indemnify commission from its own negligence or the defective condition of its property, where jury in original action impliedly found and trial court in the indemnity action expressly found that none of the defendants had been negligent. San Joaquin County v. Stockton Swim Club (App. 3 Dist. 1974) 117 Cal.Rptr. 300, 42 Cal. App.3d 968.

5. Parks and recreation commissions

Metropolitan park and recreation commission designated as public recreational agent for joint exercise of powers by city, unified school district and county, consisting of seven persons designated according to a procedure described in the contract for the coordinated operation had the status of a Legal entity and had power to sue and be sued. San Joaquin County v. Stockton Swim Club (App. 3 Dist. 1974) 117 Cal.Rptr. 300, 42 Cal.App.3d 968.